

IN THE GENERAL SESSIONS COURT
FOR DICKSON COUNTY, TENNESSEE
AT CHARLOTTE

STATE OF TENNESSEE,)	
)	
Plaintiff,)	
vs.)	Docket No: 2021-CR-18
)	
JOSHUA GARTON,)	
)	
Defendant.)	

TRANSCRIPT OF PROCEEDINGS
PRODUCED FROM A COPIED COMPACT DISC OF THE RECORDED
PRELIMINARY HEARING HELD IN GENERAL SESSIONS COURT
Before the Honorable Craig Monsue
February 3, 2021

APPEARANCES:

For the Plaintiff:	Ray Crouch District Attorney General 23rd Judicial District P.O. Box 580 Charlotte, Tennessee 37036
For the Defendant:	Jake Lockert District Public Defender 23rd Judicial District 105 Sycamore Street Ashland City, Tennessee 37015

Kim Davidson, LCR
Davidson Reporting
1270 Harristown Road
Ashland City, Tennessee 37015
(615) 519-6754

I N D E X

	<u>Page</u>
Opening Statements Waived	
LISA BAKER	
Direct Examination by General Crouch.....	10
Cross Examination by Mr. Lockert.....	25
ReDirect Examination by General Crouch.....	29
JONATHAN BAILEY	
Direct Examination by General Crouch.....	31
Cross Examination by Mr. Lockert.....	57
ReDirect Examination by General Crouch.....	62
ReCross Examination by General Crouch.....	64
Further Redirect Examination by Gen. Crouch...	65
MELISSA BAKER BOHN	
Direct Examination by General Crouch.....	67
Cross Examination by Mr. Lockert.....	71
CAPTAIN DONNY ARNOLD	
Direct Examination by General Crouch.....	75
Cross Examination by Mr. Lockert.....	80
ReDirect Examination by General Crouch.....	81
ReCross Examination by Mr. Lockert.....	82
Further Redirect Examination by Gen. Crouch...	82
Further Recross Examination by Mr. Lockert....	83
ROBERT TERRY CAUTHEN	
Direct Examination by General Crouch.....	85
AGENT JOE CRAIG	
Direct Examination by General Crouch.....	90
Cross Examination by Mr. Lockert.....	102
ReDirect Examination by General Crouch.....	116
ReCross Examination by General Crouch.....	122
Closing Argument by General Crouch.....	126
Closing Argument by Mr. Lockert.....	132
Court's Ruling.....	133

E X H I B I T S

	<u>Page</u>
1 Facebook messages between Jonathan Bailey and Joseph Callaway	57
2 Photograph posted by Joseph Callaway on Facebook	118
3 Digital copies of negative responses by DWC Construction after the posting of photograph by Joshua Garton	121

1 P R O C E E D I N G S

2 (WHEREUPON, the following proceedings were
3 had in open court:)

4 THE COURT: Okay. I think we've let
5 everybody into the meeting room now. We're ready to
6 take up case number 2021-CR-18, State of Tennessee
7 versus Joshua Garton. The State's represented by
8 District Attorney General Ray Crouch. General Crouch is
9 present in the courtroom. Mr. Garton is represented by
10 Mr. Jake Lockert, District Public Defender. Mr. Lockert
11 is joined in by Zoom.

12 What were we going to start with, Gentlemen?

13 GENERAL CROUCH: Judge, the State had filed
14 a Motion For a Mental Health Examination and Competency
15 Exam.

16 THE COURT: Mr. Lockert, can you hear
17 General Crouch?

18 MR. LOCKERT: Yes, Your Honor.

19 THE COURT: Okay. So, let's see -- do
20 you have an extra copy of your motion, General? I don't
21 know that I...

22 GENERAL CROUCH: I do not.

23 THE COURT: Okay. Huh?

24 MR. LOCKERT: We're agreeable -- we're
25 agreeable to an order to a mental health exam. We're

1 doing the same thing in circuit. The only drawback
2 right now is we've got hundreds of pages of documents
3 from Centerstone and Middle Tennessee Mental Health
4 wants to see all of the Centerstone records. And
5 Ms. Jones in my office is asking if we can download them
6 on a thumb drive and give them to the person at
7 Centerstone. That person has advised they now have
8 COVID and ask that we fax them. We're trying to find
9 another way because it's been difficult to fax several
10 hundred pages. Ms. Jones is working hard on getting
11 that done, so we should be ready for an evaluation next
12 week at the latest. We're not opposed to the motion.

13 THE COURT: All right. So I've got a
14 copy of the agreed order that was signed from the -- by
15 Circuit Court Judge Wolfe from March of 2020. So that
16 order, as far as the Court knows, would still -- would
17 still be a valid court order. It was just that --

18 MR. LOCKERT: Yes, Your Honor.

19 THE COURT: -- that -- the order
20 states that Mr. Garton was to be referred to Centerstone
21 for the evaluation but has -- has the -- is Centerstone
22 doing the evaluations anymore or was there some other --
23 some other where else that was doing the evaluations?

24 MR. LOCKERT: No, Your Honor. Middle
25 Tennessee Mental Health is taking over now.

1 THE COURT: Okay.

2 MR. LOCKERT: That caused part of the
3 delay. The main part of the delay is Ms. Jones has been
4 trying to get the records from Centerstone. We believe
5 we have all the records now. We've got to get them to
6 Middle Tennessee Mental Health. The delay was not
7 anything that our client did or didn't do. The delay is
8 us in getting those records from Middle Tennessee and I
9 think we've got them now.

10 THE COURT: Okay. Well, it sounds
11 like the State and defense are both in agreement for an
12 order for a mental health evaluation. So there will be
13 an order out of circuit court and an order out of
14 general sessions court then. So what's next then?

15 MR. LOCKERT: Well, I don't know if
16 we're on the docket for a preliminary hearing today. I
17 filed a motion, but I'm assuming if we're going to do a
18 preliminary hearing, we probably ought to do that first.

19 THE COURT: Well, does the State and
20 the defense want to go forward with a preliminary
21 hearing in light of the pending evaluation?

22 GENERAL CROUCH: Judge, my position is that
23 there are now two orders now from circuit court and
24 general sessions for mental evaluation. I don't know
25 how we could go forward with that type -- with a

1 preliminary hearing.

2 MR. LOCKERT: Well, if we're not going
3 to pursue the preliminary hearing at this time, I would
4 like to proceed with my motion. My client, as far as
5 I'm concerned, is competent to assist me in whatever we
6 choose to do, the preliminary hearing or the Motion to
7 Dismiss.

8 GENERAL CROUCH: Judge, a Motion to Dismiss
9 will be the preliminary hearing. I mean, I have six
10 witnesses, three that will testify in person and three
11 that are holding online right now.

12 MR. LOCKERT: I can tell the Court I've
13 talked to my client three times now. He's competent for
14 us to do a preliminary hearing.

15 THE COURT: Okay. Well, we can go
16 ahead and do that. Now, let me first say, Mr. Lockert,
17 I have reviewed your Motion to Dismiss.

18 MR. LOCKERT: Yes, Your Honor.

19 THE COURT: Now, I'll go ahead and say
20 that the Court's position on a review of your motion and
21 the memorandum supporting attached thereto as well as
22 the statute with which Mr. Garton is charged with
23 violating, it seems to the Court that your position that
24 this was protected speech under the First Amendment --
25 well, just -- maybe yes, maybe no, but the Court's take

1 on it is kind of depends on what the proof the State
2 would show at a preliminary hearing. I mean, certainly
3 we could -- the State was ready to go forward with that
4 and you're saying you're ready to go forward and your
5 client is competent for preliminary hearing purposes.
6 We can go ahead and go forward with the preliminary
7 hearing. And then certainly prior to the Court
8 ruling -- making any ruling as to probable cause can
9 certainly hear argument if you wish to make any
10 additional argument on your Motion to Dismiss at that
11 time.

12 MR. LOCKERT: Yes, Your Honor. I think
13 that's the best way to handle it. Do the preliminary
14 hearing first and then the Court will be more informed
15 as to what the facts are. Then as a part of the
16 argument at the end of the preliminary hearing, I'll
17 make the motion to dismiss.

18 THE COURT: Okay. All right.
19 General, what -- what witnesses do you have online that
20 you plan to call?

21 GENERAL CROUCH: Online, Your Honor, I have
22 Lisa Baker, Melissa Baker Bohn, and Jonathan Bailey.

23 THE COURT: All right. So what we'll
24 do then -- Mr. Lockert, do you request the Rule, sir?

25 MR. LOCKERT: Yes, Your Honor.

1 THE COURT: Okay. What we'll do is we
2 will put the State's witnesses back into the lobby. And
3 then as they're called, they will be admitted back into
4 the meeting one by one, okay.

5 Which witness do you plan to call first,
6 General?

7 GENERAL CROUCH: Lisa Baker.

8 THE COURT: We'll leave Mrs. Baker in
9 the meeting room. Any of the other State's witness,
10 we'll take them out of the meeting room and put them in
11 the lobby that are on Zoom. And the other State's
12 witnesses, if you will please step outside the courtroom
13 and we will call you back in when it is your turn to
14 testify, okay.

15 GENERAL CROUCH: Your Honor, I will
16 designate Agent Craig as the State's witness and will
17 remain in the courtroom.

18 THE COURT: Okay. All right. Agent
19 Joe Craig has been designated as the State's agent --
20 State's -- and he will be allowed to remain in the
21 courtroom during the proceedings.

22 All right. Let's see, can I get some help
23 with the -- or, John, if we can take -- put Mr. --
24 Mr. Bailey and Ms. Baker Bohn back in the -- back into
25 the lobby, please.

1 Okay. And if you will -- Mrs. Baker, if you
2 can please, if you would like to unmute your mic at this
3 point. Okay. Can you say something, please?

4 MRS. BAKER: Yes, sir.

5 THE COURT: Okay. We can hear you,
6 great. Thank you. All right. Then we'll go ahead and
7 proceed with the preliminary hearing. Did the State
8 want to make an opening statement?

9 GENERAL CROUCH: Waived.

10 THE COURT: Mr. Lockert, opening
11 statement?

12 MR. LOCKERT: No, Your Honor.

13 THE COURT: Okay. Go ahead and call
14 your first witness, General.

15 GENERAL CROUCH: The State calls Lisa
16 Baker.

17 THE COURT: All right. Mrs. Baker, if
18 you will raise your right hand and let me swear you in,
19 please.

20 **LISA BAKER**

21 having been first duly sworn by the Judge to tell the
22 truth, the whole truth and nothing but the truth, was
23 examined and testified upon her oath as follows:

24 **DIRECT EXAMINATION**

25 **BY GENERAL CROUCH:**

1 Q. Mrs. Baker, will you state your full name,
2 please?

3 A. Lisa Shellack Baker.

4 Q. Thank you. And, Mrs. Baker, what is your
5 relationship to Daniel Baker?

6 A. Daniel Baker is my husband. I was widowed.

7 Q. Now, I'm going to call your attention to Friday,
8 January the 22nd in 2021. Do you remember that day?

9 A. Yes.

10 Q. Okay. Did you receive a Facebook image that was
11 posted by Mr. Joseph Callaway?

12 A. I did.

13 Q. Okay. How did you receive that image?

14 A. It was a screenshot sent to me by a friend.

15 Q. Okay. How many times throughout the morning of
16 Friday, January 22nd, did you even receive the image or
17 text messages or phone calls or any type of
18 communication about the Facebook posting?

19 MR. LOCKERT: Objection.

20 THE COURT: Hold on just a moment.

21 Mr. Lockert, you --

22 MR. LOCKERT: How many times she
23 received it unless she can testify to each and every
24 person that sent it to her. If it's sent to her by 50
25 people other than my client, it's not relevant.

1 GENERAL CROUCH: Actually, Judge, it would
2 be relevant because reception of a message can come
3 through third persons. Just like if I mailed you
4 something and the mailman delivers it, it's being
5 received by a second person.

6 MR. LOCKERT: I'll again object unless
7 she can testify who sent it to her.

8 GENERAL CROUCH: I haven't asked her, but
9 what's his legal basis for the objection?

10 THE COURT: I believe Mr. Lockert
11 stated relevance, General.

12 MR. LOCKERT: Relevance and also
13 hearsay.

14 GENERAL CROUCH: Well, the statute in
15 question, one of the elements is frequency or means of
16 communication. So a relevant question would be
17 determining how many times Mrs. Baker received the
18 image. Now, who all sends it to her, it was initiated
19 by the defendant. So when he puts it out there to be
20 sent and circulated, he's responsible for every single
21 one of those deliveries.

22 MR. LOCKERT: I'm prepared to argue the
23 face at this point, Your Honor, but still it is
24 relevant. The statute is referring to a defendant
25 sending something.

1 GENERAL CROUCH: Actually, Your Honor, the
2 statute specifically defines communication and it says
3 communication with a person that posted on or through a
4 social media network. A social media network, by
5 definition, is a group of people who are intending to
6 communicate with one another.

7 MR. LOCKERT: I will agree, Your Honor,
8 that each and every person who sent this to her would
9 also under General Crouch's theory be guilty of
10 harassment. Therefore, I think it's important to know
11 who all the alleged parties of the crime are. Anyone
12 who sent this to her if she found it harassing or
13 distressful in any way, each of those people need to be
14 looked at for sending something that's harmful.

15 GENERAL CROUCH: Well, Your Honor, you have
16 to look at the intent of each person that was sending
17 it. In this case, we know the intent by his other
18 communications of the defendant, whereas the third party
19 persons sending it to Mrs. Baker were concerned for her
20 health and safety.

21 THE COURT: All right. As to the
22 objection --

23 MR. LOCKERT: The General is testifying.
24 He can't testify as to what their concern is.

25 THE COURT: Thank you, Gentlemen.

1 Let's -- as to the objection for relevance perspective,
2 the Court is going to overrule in light of Mr. Lockert's
3 later argument. Mr. Lockert, the Court would note that
4 Mrs. Baker will be subject to cross examination. So if
5 you can certainly -- the State -- the Court would find
6 the State doesn't have to go into that at this point,
7 but you will have the opportunity to when you cross
8 examine her, but I'm going to overrule the objection as
9 to relevance.

10 Go ahead, General, ask your question again.

11 **BY GENERAL BAKER:**

12 Q. Mrs. Baker, let me draw your attention back to
13 the number of times that you received the image. Can
14 you recall?

15 A. I would guess at least five or six times. I
16 would have to go back and...

17 Q. Did you receive phone calls and other messages
18 about the image?

19 A. I did.

20 Q. And what was the context of you receiving those
21 phone calls and messages?

22 A. Just asking if I was doing okay or if I -- if I
23 had been on Facebook or, you know, if I was aware of
24 what was going on.

25 Q. Do you know a Joshua Garton?

1 A. I do not.

2 Q. Do you know a Joseph Callaway?

3 A. No.

4 Q. When you received the image, what was your
5 reaction and how did you feel?

6 A. Well, when I first saw it, I thought "what in the
7 world am I looking at?" But, you know, it was -- I was
8 disgusted and then sad and then I became fearful.

9 Q. Why were you fearful?

10 A. Just your mind starts racing on, you know, what's
11 the intent behind it and, you know, should I -- should I
12 be concerned with my safety, my child's safety. You
13 know, there wasn't anything going on right now with the
14 other trial or anything to do with Daniel in the news,
15 so I wasn't sure, you know, if it was targeted.

16 Q. Sure. Now, were people forwarding or sending you
17 messages that Mr. Joseph Callaway had sent them through
18 Facebook Messenger?

19 A. Yes. I did receive some messages that were
20 people interacting with him separately.

21 Q. Okay. Did any of those messages reference you?

22 MR. LOCKERT: Objection.

23 THE COURT: Okay. Just a moment. All
24 right. What's the objection, Mr. Lockert?

25 MR. LOCKERT: Objection is going to be

1 time frame as to when she received those, whether it was
2 before or after it being posted (inaudible) online.
3 Whether or not it was before or after my client's -- the
4 warrant had been taken out.

5 THE COURT: Okay. General, if you
6 could lay a foundation.

7 **BY GENERAL CROUCH:**

8 Q. Mrs. Baker, let's go back. When did you receive
9 the -- what time was it when you received the very first
10 image?

11 A. It was about -- I'd say a quarter till 8:00, ten
12 till 8:00.

13 Q. In the morning?

14 A. Yes, sir.

15 Q. And you began receiving these forwarded
16 communications from a Joseph Callaway about what time?

17 A. I really can't recall without pulling it up and
18 looking at it, but I believe I was still at work, so it
19 would have been before noon.

20 Q. Before noon?

21 A. Uh-huh. And I wasn't on Facebook directly while
22 I was at work, so I'm unaware of when the TBI may have
23 posted whatever was posted.

24 Q. Okay. So to the best of your recollection, you
25 received these messages before noon?

1 A. Yes.

2 GENERAL CROUCH: Your Honor, the Court can
3 take judicial notice of the time that the warrant was
4 issued for Mr. Garton, which I believe would have been
5 after 2:30 p.m. on Friday, January 22nd.

6 **BY GENERAL CROUCH:**

7 Q. Now, Mrs. Baker, back to my initial question.
8 Were these messages from Callaway in reference to you?

9 A. There were a few, yes, that I would assume
10 reference -- he didn't call me by name, but he said "his
11 wife".

12 Q. What did the message say?

13 A. That the next thing that would be (audio
14 distortion).

15 Q. Your -- the computer -- the sound went off for
16 just a second. Could you repeat that?

17 A. The message that I saw said that the next
18 photoshopped image would be of his wife.

19 Q. Okay. How did that make you feel?

20 A. Well, it made me wonder what I had done. You
21 know what --

22 MR. LOCKERT: Objection.

23 THE COURT: Mr. Lockert objected.
24 What --

25 MR. LOCKERT: Basis of the objection is

1 relevance. If someone named Callaway shared a private
2 conversation that they had with the defendant with this
3 young lady, it's not relevant to what the intent was in
4 posting this particular meme. And a conversation in
5 regard to what they might do in the future certainly is
6 not relevant to the meme in question here and the charge
7 in question here.

8 GENERAL CROUCH: Your Honor, it is
9 absolutely relevant. Part of the fear and annoyance
10 that was experienced by the victims is the fact that
11 there's this anonymous person with a mask on and a
12 Confederate flag posting a message -- a photo of someone
13 urinating on a grave and then sending private messages
14 threatening to upload more photos of Mrs. Baker. How is
15 that not relevant in a harassment case? This guy was
16 targeting the Baker family.

17 THE COURT: Looking at the statute, of
18 course there's several different ways that -- under this
19 statute that harassment can be committed. But there's
20 under (a)(1)(b), a reasonable person standard. Under 2,
21 "requires intent that the frequency or means of the
22 communication annoys, offends, alarms, or frightens the
23 recipient and, by this action, annoys, offends, alarms
24 or frightens the recipient." Or under number 4,
25 "communicates with another person or transmits or

1 displays an image without legitimate purpose with the
2 intent that the image viewed by the victim maliciously
3 intends the communication to be a threat of harm and a
4 reasonable person would perceive the communication to be
5 a threat of harm."

6 So certainly the Court would find that
7 Mrs. Baker's feelings or emotions or state of mind in
8 relation to these messages she was receiving would
9 entirely be relevant based under the standards as set
10 forth in the statute. So the objection is overruled.

11 Go ahead, General.

12 MR. LOCKERT: Your Honor, did -- Your
13 Honor.

14 THE COURT: Yes, Mr. Lockert.

15 MR. LOCKERT: That wasn't sent from my
16 client to this young lady. Not disseminated to her in
17 any way. It was a private conversation that was
18 screenshotted by another individual and sent to her.
19 Under the statute, clearly that does not encompass
20 someone else screenshotting a private conversation
21 saying bad things and then another person sending it to
22 that person. I may say terrible things about somebody,
23 somebody I don't like, law enforcement or whatever, and
24 if somebody then takes that and relays it to another
25 person unbeknownst to me, how can I be held criminally

1 liable to that?

2 GENERAL CROUCH: Your Honor, this statute
3 does not -- the harassment statute doesn't go to
4 content --

5 THE COURT: Hold on. Both of y'all
6 are talking.

7 MR. LOCKERT: -- to the Court.

8 THE COURT: What, Mr. Lockert?

9 MR. LOCKERT: I'm asking the Court for a
10 ruling as to whether or not a private conversation not
11 disseminated by the defendant but someone else who
12 shares a private conversation with the alleged victim,
13 how is the defendant to be held criminally responsible
14 for that?

15 THE COURT: Okay. Well, before I
16 answer your question, I was going to give General Crouch
17 a chance to respond. General Crouch.

18 MR. LOCKERT: Yes, sir.

19 GENERAL CROUCH: Thank you. Judge, in the
20 harassment statute in Tennessee, the statute is narrowly
21 tailored to define action versus content and to
22 determine action and why the Court and proof can show
23 the intent. These private messages to third parties
24 show the intent of the defendant to cause harassment and
25 to try to intimidate the Baker family.

1 Now, United States v. Gonzalez specifically
2 holds this. It says: "In a case like this, it's not
3 simply that the defendant made statements expressing
4 their beliefs but that these statements were sent to the
5 victim, the children, and third parties -- third parties
6 as an extensive and successful campaign to threaten,
7 intimidate, and harass."

8 The Court expects that if you send some type
9 of harassing or threatening message to a third party,
10 friends of Mrs. Baker, they will be expected to forward
11 those to Mrs. Baker for her concern. That's exactly
12 what we have.

13 MR. LOCKERT: You can't prove that was
14 the defendant's intent that that be relayed to the
15 victim. He has no proof that that was the defendant's
16 intent.

17 GENERAL CROUCH: Judge, that's what we're
18 doing is putting on proof.

19 MR. LOCKERT: Until they can prove that
20 was my client's intent in private conversations, those
21 private conversations are not relevant, Your Honor. He
22 may have said horrible things about Deputy Baker to
23 friends in private conversations. That's not a crime.
24 Unless the State can prove that he intended for those to
25 then be relayed to the victim, it's not relevant.

1 THE COURT: Well, Mr. Lockert, I agree
2 with you, but I don't -- insofar as I don't know what
3 the proof is going to end up showing. I mean, that's
4 why we're having the preliminary hearing. The burden of
5 proof is on the State. If they're saying that this is
6 -- if their intention -- their position is that your
7 client -- there's probable cause to exist and believe --
8 or there's probable cause to exist and believe that your
9 client committed harassment against Mrs. Baker and
10 they're going to show or they can show that there was --
11 that that was your client's intent -- maybe they can,
12 maybe they can't. We haven't gotten there yet, but --

13 MR. LOCKERT: I agree, Your Honor.

14 THE COURT: So --

15 MR. LOCKERT: And it could be -- that
16 should be the foundation before they can go into any
17 horrible thing said in private conversations. It should
18 not come into proof unless the State can lay a
19 foundation that those were intended to be disseminated
20 to the alleged victim. That's all I'm --

21 GENERAL CROUCH: Your Honor, that is not
22 the law. The law does not require us to show that
23 portion of intent. It requires us to show the intent to
24 commit harassment. The intent. Why did the defendant
25 post this image? We have to show his intent for that

1 image to be meant as harassment. We're not trying to
2 regulate the content. We're trying to show why he did
3 it, his intent to do this posting.

4 MR. LOCKERT: And, Your Honor, if he can
5 show that these private conversations were intended to
6 be disseminated and intended as harassment as opposed to
7 a private discussion of a public matter about not liking
8 police, not liking this officer, whatever, the State has
9 to lay a foundation that that was intended to be
10 disseminated and to be for the purpose of harassment.

11 GENERAL CROUCH: We will. As soon as we
12 get to our next witness.

13 THE COURT: All right. Well, did you
14 hear General Crouch, Mr. Lockert?

15 MR. LOCKERT: I -- I think he said he
16 would do that with his next witness.

17 THE COURT: Well, as far as -- as far
18 as that goes, I'm not going to tell or dictate to the
19 State how they try their case or present their case, nor
20 would I do the same to you, Mr. Lockert, and dictate to
21 you how you would have to proceed with your case on your
22 client's behalf; so...

23 MR. LOCKERT: I understand, Your Honor.
24 All I'm trying to do is make sure they comply with the
25 rules of evidence. Private conversations that are

1 screenshotted is hearsay. It has to be a foundation as
2 to why it's relevant, what the intent of that private
3 conversation was. Otherwise, any private conversation
4 my client has with anybody, trashing Officer Baker or
5 the sheriff's department or anyone else, according to
6 the State's theory, that comes in. Whether it's hearsay
7 or whatever, that comes in and should be relevant.

8 THE COURT: Well, now, I was trying to
9 take all this in, but I haven't heard any statements
10 about what these messages may have contained or not have
11 contained. I thought that we were at the point that the
12 question General Crouch asked was he asked Mrs. Baker
13 how did that make you feel getting these messages, and I
14 thought that that's where we're at at that point that
15 you objected to the relevance about her receiving these
16 messages from these third parties that were these
17 screenshots or whatever. I didn't hear any testimony,
18 as far as the Court's aware, of any of the content of
19 any of these messages.

20 So with -- General Crouch, was that, in
21 fact, the -- I didn't want to mischaracterize your --
22 the testimony, but as far as your question you asked of
23 your witness?

24 GENERAL CROUCH: Yes.

25 THE COURT: Okay. Well, I'll just say

1 that I'll -- as far as any objections on that, you know,
2 I'm just going to table that for right now and --

3 MR. LOCKERT: Yes, Your Honor.

4 THE COURT: As far as just the nature
5 of this case that we're talking about communications
6 through social media and all that entails, then I'll
7 just go ahead and say that I want to -- you know, the
8 State's got to get there and I'm going to give them the
9 opportunity to get there. And whether they do or
10 whether they don't, that's up to them. So let's just go
11 ahead and plow forward.

12 GENERAL CROUCH: Judge, that's all the
13 questions I have for Mrs. Baker.

14 THE COURT: All right. Mr. Lockert?

15 **CROSS EXAMINATION**

16 **BY MR. LOCKERT:**

17 Q. Mrs. Baker, do you recall giving a statement to
18 News Channel 2 after you became aware of this meme and
19 what was said?

20 A. Yes.

21 Q. And on Channel 2, do you recall saying "I have
22 lived through the worst and continue to just push
23 forward. There's not so much that people in this world
24 can do to surprise me. All I can do is pray for the
25 lost soul responsible and for the safety of law

1 enforcement." Does that sound correct?

2 A. Yes.

3 Q. You didn't tell them you were afraid for you and
4 your family?

5 A. I didn't think that was relevant for News 2.

6 Q. You didn't tell them that.

7 A. Do I let the world know that I'm fearful? No. I
8 don't want people showing up at my door.

9 Q. You didn't tell them that you were afraid for you
10 and your family?

11 A. No. I wasn't asked that question.

12 Q. Okay. I'm just (inaudible). Now, if this
13 case -- your husband Officer Daniel Baker was (audio
14 distortion) and not deceased, would you have considered
15 (audio distortion) threatening or anything like that?

16 A. Can you repeat that? The microphone cut out.

17 Q. If your husband had not tragically lost his life
18 in the line of duty and were not dead and, in fact, was
19 still alive, would you have considered this meme to be
20 anything other than in just poor taste?

21 A. Well, I don't live in a make believe world. It
22 is what it is. As much as I wish that he were here
23 today, he's not. So I don't know how I would feel about
24 it if he were here.

25 Q. You certainly wouldn't be near as afraid if your

1 husband was still around?

2 A. I don't believe that to be true because there are
3 a lot of families, law enforcement families, that are
4 fearful and their spouses are here.

5 Q. Are you aware that on social media people post
6 memes (audio distortion) all the time?

7 A. No.

8 Q. Do you think a meme with somebody peeing on a
9 cop, would you consider that to be (audio distortion) if
10 they posted a picture?

11 GENERAL CROUCH: Judge, I'm going to object
12 to speculation and relevance. I mean, we're not talking
13 about any other cop. We're talking about someone who
14 was murdered in the line of duty whose wife is now
15 testifying. Mr. Lockert will never know that feeling.
16 So for him to compare some meme on Facebook to real life
17 facts, that's calling for the witness to speculate as to
18 how somebody else would feel who has not experienced and
19 in the position that she's in.

20 THE COURT: Mr. Lockert, I -- before
21 we get to that, is that the phone on your desk ringing,
22 sir?

23 MR. LOCKERT: What?

24 THE COURT: Was that phone, is that
25 the phone on your desk that's ringing or by your desk?

1 UNIDENTIFIED PERSON: It's mine.

2 THE COURT: Huh?

3 UNIDENTIFIED PERSON: (Inaudible).

4 THE COURT: Oh, is it your phone?

5 Okay. I would --

6 MR. LOCKERT: (Inaudible).

7 THE COURT: Okay. We were -- I was
8 hearing a phone ringing. It seemed like it was
9 interfering with audio, but -- okay.

10 So, Mr. Lockert, one more time for me
11 because -- what was the question specifically you asked
12 Mrs. Baker?

13 MR. LOCKERT: If your husband were still
14 alive today as opposed to being dead, would you have
15 considered this meme as being harassing versus
16 (inaudible)?

17 GENERAL CROUCH: Judge, that was already
18 asked and answered.

19 MR. LOCKERT: She hasn't asked for me to
20 clarify again. So I assume she can answer.

21 THE COURT: Yes, General, I'm going to
22 -- Mrs. Baker, for the Court's clarity, can you please
23 answer that question?

24 MRS. BAKER: Can you repeat the
25 question?

1 MR. LOCKERT: Yeah.

2 BY MR. LOCKERT:

3 Q. If your husband -- if your husband was still
4 alive and working for the sheriff's department and
5 (audio distortion) this meme today, you consider that
6 harassing or intimidating as you would knowing that he's
7 dead? Would it be a different situation?

8 A. It may have been presented a little bit
9 differently as far as -- I mean, it would still be
10 fearful because, I mean, he still would be out in the
11 world trying to protect the community and it would still
12 make me feel like he and myself and my family would be
13 targeted.

14 MR. LOCKERT: That's all I have.

15 THE COURT: Any redirect?

16 GENERAL CROUCH: Just one.

17 **REDIRECT EXAMINATION**

18 **BY GENERAL CROUCH:**

19 Q. Mrs. Baker, just to follow up. I know we've
20 talked about several instances where you received this
21 image. I think you testified that you were at work and
22 couldn't get on Facebook; is that right?

23 A. Yes.

24 Q. Do you work in Dickson County?

25 A. Yes.

1 Q. Okay. Thank you.

2 THE COURT: Mr. Lockert, any recross?

3 MR. LOCKERT: No questions.

4 THE COURT: Okay. Mrs. Baker, you're
5 excused as a witness. If you want to leave the meeting,
6 you can do that, or if you want to stay in the meeting,
7 you can stay in the meeting. If you would please mute
8 your microphone if you do stay, though, okay.

9 MRS. BAKER: Okay.

10 THE COURT: Thank you.

11 MRS. BAKER: Thank you.

12 THE COURT: Next witness?

13 GENERAL CROUCH: The State calls Jonathan
14 Bailey.

15 THE COURT: All right. We can let
16 Mr. Bailey into the meeting room. Mr. Bailey, you can
17 unmute your microphone, sir. There you go. Okay. You
18 can hear us?

19 MR. BAILEY: Yes, Judge.

20 THE COURT: Okay. All right. The
21 State has called you as a witness. If you will, please
22 raise your right hand and let me swear you in.

23 (Whereupon, the Judge administers the oath
24 to the witness).

25 THE COURT: Thank you. Your witness,

1 General.

2 **JONATHAN BAILEY**

3 having been first duly sworn by the Judge to tell the
4 truth, the whole truth and nothing but the truth, was
5 examined and testified upon his oath as follows:

6 **DIRECT EXAMINATION**

7 **BY GENERAL CROUCH:**

8 Q. Mr. Bailey, will you state your full name,
9 please?

10 A. Jonathan Boyd Bailey.

11 Q. Thank you. And where do you work, Mr. Bailey?

12 A. I am medically retired.

13 Q. Thank you. Do you know Lisa Baker?

14 A. I do.

15 Q. Did you know Sergeant Daniel Baker?

16 A. I do.

17 Q. And what was your relationship with Sergeant
18 Daniel Baker?

19 A. Daniel was my best friend.

20 Q. Was he a part of your wedding?

21 A. He was in my wedding.

22 Q. Pardon?

23 A. He was the best man in my wedding.

24 Q. And are you still friends with Mrs. Lisa Baker?

25 A. Yes, sir, I am.

1 Q. Let me call your attention to the morning of
2 January 22nd. Did you have a Facebook Messenger
3 communication with a Joseph Callaway?

4 A. Yes, sir.

5 Q. Did you know Joseph Callaway?

6 A. No, sir.

7 Q. Did that conversation or series of messaging
8 occur at approximately 7:29 a.m.?

9 A. Yes, sir, I believe that's when I sent the brief
10 message to him.

11 Q. Thank you. And did you preserve those
12 communications?

13 A. Yes, sir, I did.

14 Q. Okay. Do you have those with you now?

15 A. I submitted those what I do have copies of, yes,
16 sir.

17 Q. Okay. So do you have them available to refer to
18 as we go through this questioning?

19 A. Yes, sir.

20 Q. Okay. What was the -- what was your first
21 communication with Joseph Callaway at 7:29 a.m. on
22 January 22nd?

23 MR. LOCKERT: Objection.

24 GENERAL CROUCH: What's the legal basis?

25 THE COURT: What's the basis,

1 Mr. Lockert?

2 MR. LOCKERT: Hearsay.

3 GENERAL CROUCH: I asked him what his
4 communication was.

5 THE COURT: Well, I don't know if it's
6 hearsay or not, Mr. Lockert.

7 MR. LOCKERT: As long as he doesn't
8 testify to what Callaway told him or shared with him,
9 that's fine.

10 GENERAL CROUCH: Well, Judge, let's just go
11 ahead and have that hearing because he will be because
12 Callaway is Garton and these are statements and
13 admissions of the defendant. So they're not hearsay.

14 MR. LOCKERT: Your Honor, they're
15 hearsay if a person who alleges they heard or was told
16 these conversations is not here to testify they're
17 hearsay.

18 GENERAL CROUCH: He is here to testify.
19 He's talking to him right now. His name is Jonathan
20 Bailey. He had this communication with the defendant.
21 The defendant, by his own admission, is Joseph Callaway.
22 That's part of the problem with these alleged First
23 Amendment claims is that you have somebody who has taken
24 the persona of Joseph Callaway in order to commit this
25 harassment. So if the issue is going to be proving the

1 identity of Callaway, we can continue this and I can
2 call another witness out of order, but Mr. Lockert is
3 also saying that we can't put down any proof to show the
4 intent of Joseph Callaway because we can't prove who he
5 is?

6 MR. LOCKERT: No, Your Honor. If he can
7 prove that Callaway is my client and if he can -- if
8 he's going to show the Court that he will prove that
9 with another witness, that's all right with me. But I
10 don't want him testifying about something that a Joseph
11 Callaway told him if he can't later prove that that was,
12 in fact, my client. But if he's saying he can prove
13 that with a later witness, that's fine.

14 GENERAL CROUCH: Judge, that is an argument
15 to be made by the defense. Whether they choose to
16 continue forward with this persona of Joseph Callaway is
17 their choice, but we have proof and an admission of
18 Garton to using Callaway as his Facebook profile.

19 THE COURT: Mr. Lockert, according to
20 General Crouch, the State is prepared to present proof
21 of that later in this hearing, that Joseph Callaway, the
22 online persona, is, in fact, your client.

23 MR. LOCKERT: And that's the reason I
24 said, if the State is saying they can do that through
25 substantive proof, that's fine. I won't object.

1 THE COURT: Okay. Objection
2 withdrawn. Go ahead, General.

3 **BY GENERAL CROUCH:**

4 Q. Mr. Bailey, let's go back to my question, which
5 -- January 22nd, 7:29 a.m., you asked through Facebook
6 Messenger a question of Mr. Joseph Callaway; is that
7 correct?

8 A. Yes, sir.

9 Q. And what did you ask?

10 A. I said, "I just want to know why? Daniel was the
11 best man at my wedding and a good friend. He was a good
12 cop. We both treated people right. If this is what you
13 think he deserves, you didn't even know him."

14 Q. And what was Joseph Callaway's reply?

15 A. "You think that's bad, my friend, the party has
16 only just begun. That was just a little taste of what I
17 can do."

18 Q. Okay. And then your next question?

19 A. I said, "I am sure, but why?"

20 Q. His answer?

21 A. "Because I can."

22 Q. And your next statement or question?

23 A. "No doubt you have the right to say or do
24 whatever you want. Why Daniel though?"

25 Q. His response?

1 A. "Because I can. He ain't going to be the only
2 one. I have a list and I intend on keeping that list."

3 Q. Your question?

4 A. "Of dead police officers?"

5 Q. His response?

6 A. "Yes, you are totally correct. And what's the
7 objective here that you are trying to get me to
8 understand?"

9 Q. And what was your response?

10 A. "I don't have any objectives, man. It's just
11 hard to understand. He was a good dude. I was a cop
12 for many years, and there may be bad ones out there but
13 there is way more good than bad. I know I won't change
14 your mind. It's just hard to understand."

15 Q. And his next statement?

16 A. "The question is have I done any crime?"

17 Q. And your answer?

18 A. "As far as the post?"

19 Q. His response?

20 A. "Photoshop is a crime." And then he sent a
21 picture of -- looks like two gentlemen urinating
22 defacing a grave stone.

23 Q. And in the picture that he sent you, is the image
24 of Daniel Baker on the tombstone?

25 A. No, sir, it's not.

1 Q. So he's showing you an image -- he sent you an
2 image of a tombstone of two men urinating on it without
3 Daniel Baker's image?

4 A. Yes, sir.

5 Q. Okay. And then I think you responded to that
6 image.

7 A. He's continued talking here. He says, "here is
8 the original. Actually came off the back of a CD case."

9 Q. Okay. And what did you say?

10 A. "I know it wasn't Daniel's grave site, but trust
11 me, I've been there a bunch of times. It's still just
12 unbelievable to me. Why piss on a dead cop who is
13 actually a great dude? The whole message just doesn't
14 make sense to me."

15 Q. And what did he say?

16 A. "So tell me the crime that I've committed."

17 Q. And your answer?

18 A. "I haven't accused you of any crime."

19 Q. Callaway?

20 A. "Well, you kind of did when you said 'as far as
21 the post'."

22 Q. And your response?

23 A. "With a question mark, my man. I mean, I don't
24 know you personally. I don't think I have any friends
25 that know you. We have 25 mutual friends but none of

1 them know you."

2 Q. His response?

3 A. "No one knows me, my dude, and no one is ever
4 going to. You can have the best tracking devices as
5 possible. I think before I post something."

6 Q. All right. And your next question to him?

7 A. "So what is your mission?"

8 Q. His answer?

9 A. "What's my mission? That's my mission. Dickson
10 County cops have falsely accused my boys of crimes they
11 have not committed and they will pay, every single one
12 of them. So they sent a professional like me to drag
13 the attention that I exactly want to know that they work
14 for us, not themselves. Trust me, I got 20 other people
15 that can get the attention and the word out legally
16 without anyone or any casualties. I took four years of
17 criminal justice. I know what to say and what to do.
18 If I didn't know what I was doing, I wouldn't have done
19 it in the first place. So maybe next time they'll think
20 who they fuck with. Trust me, I get paid regardless."

21 Q. And your answer?

22 A. "So you're just trolling them to get them mad?"

23 Q. And what did he say?

24 A. He said, "and it seems that I got the attention
25 that I want."

1 Q. Your response?

2 A. "I got you. So the objective is to call
3 attention to your cause?"

4 Q. His answer?

5 A. "This is just only a taste of what we're doing.
6 Sometimes you have to shake things up and rattle some
7 cages, and it seems that my post is going all over
8 Facebook and I am loving it."

9 Q. What was that last paragraph again?

10 A. "And it seems that my post is going all over
11 Facebook and I'm loving it."

12 Q. Okay. And your response?

13 A. "Oh, no doubt. I just wish there was another way
14 for you to get your message out other than Daniel, other
15 than hate."

16 Q. Callaway said?

17 A. "No, there is no other way. Cops think they have
18 more power than what they can handle. Dickson County
19 cops are crooked, pathetic, low lives. How can I prove
20 this? I have plenty of cases that are on my desk right
21 now. Eight people have been falsely accused of crimes
22 that they haven't even committed. What do you call
23 that?"

24 Q. And your answer?

25 A. "A matter of jurisprudence. Something that if

1 true can have severe judicial ramifications, things that
2 are handed civilly in court, things that cops don't get
3 away with."

4 Q. And Callaway's response?

5 A. "Police are not accountable for anything. It's
6 their word over our word. So since they think they have
7 power, they forget people like me will make their job
8 solely harder than what it is. I'll make them cry like
9 little -- like little babies and the people who follow
10 them."

11 Q. And your response to him?

12 A. "That's not true. Police are held way more
13 accountable than you image. I've witnessed with my own
14 eyes officers get relieved of their duties without
15 upholding their oath." And the next question I asked
16 him was: "Who is the cop that falsely accused your
17 folks?"

18 Q. And his answer?

19 A. "Yeah. Falsely accusing my folks. And the D.A.
20 and judges, all of them are going to have it handed to
21 them. They just got to wait in line."

22 Q. Your response?

23 A. "Which cop was it?"

24 Q. Answer?

25 A. "That's classified."

1 Q. Your response?

2 A. "Oh, I got you."

3 Q. Callaway?

4 A. "Let's just say I have plenty of them on the
5 radar. It's only a matter of time with another little
6 picture of them will surface to the internet."

7 Q. And your response?

8 A. "Another photoshopped one?"

9 Q. Callaway?

10 A. "Maybe, maybe not. I plead the Fifth."

11 Q. Your response?

12 A. "Laugh out loud. This isn't an interrogation,
13 man. I'm just conversing. If anything, just trying to
14 understand. You don't have to plead anything with me.
15 I'm just a civilian."

16 Q. His response?

17 A. "It doesn't matter. You used to be a cop."

18 Q. Your response to him?

19 A. "Key word, used to."

20 Q. Callaway?

21 A. "I know my rights. I took four years of criminal
22 justice at Stamford University."

23 Q. Your response?

24 A. "Stamford in Connecticut?"

25 Q. His response?

1 A. "Yes. 'I used to be a cop' is the key word. I
2 understand that. But you work for a crooked judge,
3 crooked D.A.s, et cetera."

4 Q. Your response?

5 A. "So do you hate all cops or just Dickson County
6 cops? I've never worked in Dickson as an officer."

7 Q. And his response?

8 A. "I haven't gotten to the point of expanding on
9 hating cops yet. I'm only starting with just the
10 Dickson County cops. I've seen the way they treat
11 people personally. I just have to keep in the shadows.
12 I keep my mouth quiet, I listen. I understand by
13 listening to them, I react to it. Just what you're
14 seeing right now is only a taste of what's coming,
15 legally speaking."

16 Q. Your response?

17 A. "Are you from Dickson or just have a connection
18 to Dickson from your friends?"

19 Q. Callaway?

20 A. "I have connections all over the world. People
21 get in contact with me to make other people's life a
22 living hell. I guess in your words you call it trolling
23 and I call it making your jobs a little harder."

24 Q. Let me back up just a second, Mr. Bailey. Did
25 Callaway say "people getting in contact with me to make

1 other people's lives a living hell"?

2 A. Yes.

3 Q. Thank you. And then your response to that?

4 A. "I don't use it as a condescending term. It's a
5 tactic called trolling."

6 Q. His response?

7 A. "That's the difference in trolling and making a
8 statement."

9 Q. Callaway?

10 A. "I got you. What is the statement? I still
11 haven't figured out from your original" -- this is my
12 reply.

13 Q. Sure. Okay.

14 A. "I got you. What is the statement? I still
15 haven't figured out from your original post. Paying my
16 respects to Deputy Daniel Baker. Was upsetting them
17 making their jobs harder?"

18 Q. Callaway?

19 A. "Have you read through the comments that were
20 posted on that?"

21 Q. Your response?

22 A. "I haven't. Are they just mad people? It was
23 just sent to me this morning as a picture. I haven't
24 even looked at the post."

25 Q. Callaway?

1 A. "Well, you should take a look at it and come back
2 to me and see how the statements actually work on people
3 actually getting mad and trying to report it to the
4 police knowing that it's photoshopped, but they're too
5 stupid to realize it's photoshopped. Cops get that
6 report, they find out it's photoshop, they see it, they
7 get mad."

8 Q. And your response?

9 A. "Well, I don't think there's many cops around
10 Dickson that don't know what Daniel's grave looks like.
11 It's very unique. They surely know it's photoshopped."

12 Q. Callaway?

13 A. "I know where his grave is at. I followed their
14 police cruisers all the way there. And that's for me to
15 know."

16 Q. Your response?

17 A. "Yeah. I guess I'm just still confused, but
18 that's not your fault. It's mine. I don't get how
19 Daniel deserved this. He was a good one, not a bad
20 one."

21 Q. Callaway?

22 A. "I always do my research. You have to know who
23 -- you have got to know your enemies. There is no good
24 cops."

25 Q. Your response?

1 A. "We'll just have to agree to disagree on that
2 one. I know (inaudible)."

3 Q. Callaway?

4 A. "When you put a badge on, you become an enemy.
5 It doesn't get any more simpler than that."

6 Q. And I want you to read that paragraph again.

7 A. "When you put on a badge, you become the enemy.
8 It doesn't get any more simpler than that."

9 Q. Go ahead.

10 A. "You work for Red Coats governments who are
11 crooked and who have stolen this land from the natives
12 and Mexicans made. (Inaudible) to put everyone in
13 place. If they don't walk the line, you just put their
14 ass in jail. That's called slavery. You putting
15 someone somewhere underneath their own free will,
16 freedom is a joke. Just like the law, we have to treat
17 it as a joke."

18 Q. Your response?

19 A. Can I get some water? I'm sorry.

20 Q. Sure.

21 A. My response: "So it's an anti-government agenda
22 then? Not just cops. Just the government in general.
23 So you don't think people who cause innocent people harm
24 should be accountable for their actions?"

25 Q. Callaway?

1 A. "What do you think the Mexicans and natives went
2 through when they got black slave owners who come in
3 this world, shot and killed, raped and murdered, and
4 said that all men" -- sorry. (Inaudible).

5 Q. You're right.

6 A. "And said that all men are -- men and women are
7 created equal besides blacks, natives, and women. And
8 you know who cops are. They work for those. They are
9 the problem, not the solution. Putting people in jail
10 does not reduce crime. It's not even buy a nickel. All
11 it does is create people who hate them more. I mean,
12 I'm a very intelligent man, so please do not act like I
13 am illiterate. Cops, government, D.A.s, CIA, FBI, et
14 cetera, they are the problem in this country. They are
15 not the solution. It's a fact. It's not even an
16 opinion, my dude. I can point out millions of trillions
17 of things that the problem is."

18 Q. Your response?

19 A. "Hold on a second. I was away from the P.C. Let
20 me read."

21 Q. Callaway?

22 A. "You think congress is going to listen to me?
23 No. Because they've got their heads so damn far -- so
24 far up their ass, they couldn't see the truth if it
25 smacked them across the face. No one cares about

1 anybody until a statement is made and everybody wants to
2 listen. That's how the world works."

3 Q. And your response?

4 A. "I never accused you of being illiterate. I'm
5 just trying to better understand your cause. I know
6 that it's definitely going to be hard to get someone the
7 level of congress to listen to (inaudible). But don't
8 you think that this will just make cops mad? I don't
9 see how it changes their actions. I think it continues
10 to divide police officers from the citizens. That can't
11 be good, right?"

12 Q. Callaway?

13 A. "That's how it works. They get mad and they
14 cross the line. I sue them. I make money off of them.
15 Eventually, they get so sick of me that they'll know who
16 is in charge. I'm just waiting. They made the decision
17 to falsely accuse my boys, my crew. They started this
18 war. The war has only begun. They want division.
19 That's why they carry that thin blue line. And don't
20 tell me it's about fallen brothers because it isn't."

21 Q. And your response?

22 A. "Got you. I know what happened. It was just on
23 my heart and I owe it to Daniel to ask that you take
24 down the post. I know you probably won't, but I wish
25 you would use something else now that you have

1 everyone's attention. He was a really good dude. He
2 let more people go than he ever arrested, and he treated
3 everyone fairly. He would give you the shirt off his
4 back literally. I couldn't sleep tonight if I didn't at
5 least ask. I get that you want to make things different
6 and you have a cause. I just ask that you do something
7 else."

8 Q. Callaway?

9 A. "That's just some sad pathetic excuse of why you
10 carry it."

11 Q. Your response?

12 A. "Well, for me personally, it was about the ones
13 we lost and that became even more personal when I lost
14 Daniel. I think everyone has their own opinion of what
15 a symbol means, like the Confederate flag you have in
16 your picture. It's not all about hate. I've heard
17 people say it is. It will be mine. It means a lot to
18 me (inaudible) my friends. Not the way you imagine. I
19 never (inaudible) us versus them. I just want people to
20 have my (inaudible)."

21 Q. Callaway?

22 A. "That's not the fact. The thin blue line means
23 division between the police and the citizens. You want
24 to be a part of the citizens, start carrying a United
25 States flag (inaudible). But when you start desecrating

1 the flag, you've already broken the law of penal code of
2 respect for our flag."

3 Q. And your response?

4 A. "Most all of our uniforms have the U.S. flag on
5 them. The thin blue line is for fallen police officers.
6 It's not a secret club or something."

7 Q. Callaway?

8 A. "You want to be the solution to bringing the
9 police and the citizens together, maybe start with the
10 flag desecration thing. And trust me, it is a law and
11 you can look it up."

12 Q. Your response?

13 A. "Oh, I know it's the law. I was in the military
14 before I became a police officer, and I don't own one of
15 those American flags with a thin blue line. I have a
16 simple black flag with a blue line in between them.
17 What it means for me? I lost my best friend just doing
18 a job, a hard one, one that you can't please everyone.
19 If you make one side happy, the other is mad. He was
20 just trying to get home to his wife and daughter."

21 Q. Callaway?

22 A. "Well, thanks for your service of the military.
23 I did boot camp training."

24 Q. Your response?

25 A. "Daniel served two tours in Iraq in his initial

1 surge. He has (inaudible) when Saddam was still alive.

2 He was a true war hero until (inaudible)."

3 Q. Callaway?

4 A. "Well, Daniel is dead."

5 Q. Your response?

6 A. "Oh, I know, man."

7 Q. Callaway?

8 A. "He died serving the wrong side. Once was a hero
9 and then became an enemy."

10 Q. Read that paragraph again, please.

11 A. "He died serving the wrong side. Once was a hero
12 and then became an enemy."

13 Q. Your response?

14 A. "That's the (inaudible) of your mission. I don't
15 harbor hate. I just want what's best for Daniel's
16 family and -- that's left behind and those of us who
17 really loved him."

18 Q. All right. And Callaway?

19 A. "Well, maybe he shouldn't have served the wrong
20 side of -- I mean, I can do some photoshop of his wife.
21 I've got plenty of ideas running through my mind. That
22 will really shake up some people."

23 Q. Let me stop you right there. Mr. Bailey, in that
24 paragraph when you read Callaway's response, "I mean, I
25 can do some photoshop of his wife," who is he -- who do

1 you think he's referring to?

2 A. Lisa Baker.

3 Q. And he says, "I've got plenty of ideas that's
4 running through my mind"?

5 A. Yes, sir.

6 Q. What was your response?

7 A. "She's completely innocent, man. She never wore
8 a badge."

9 Q. All right. And what was Callaway's response to
10 that?

11 A. "Then she married a traitor, a Red Coat. Knew he
12 was a traitor, treason. Just as guilty. She didn't
13 have a gun pointed to her head when she married the man.
14 She did that of her own free will."

15 Q. All right. Mr. Bailey, in reading that
16 paragraph, Callaway is saying that Mrs. Baker married a
17 traitor, a Red Coat, someone who committed treason; is
18 that right?

19 A. Yes, sir.

20 Q. And he's also saying that Mrs. Baker is just as
21 guilty?

22 A. Yes, sir.

23 Q. And your -- from your reading of that, he's
24 accusing both Daniel and Lisa Baker of having committed
25 treason?

1 A. Yes, sir.

2 Q. What was your response?

3 A. "That would just make everyone turn away from
4 your cause."

5 Q. And Callaway?

6 A. "And that's fine. You're going to have people
7 who are going to hate you. You're going to have people
8 that's going to love you. I don't owe anything to
9 anyone. My message will be very crystal clear. Trust
10 me, I did it -- I didn't just upload it to Facebook. I
11 uploaded it on a ton of websites. One website I have
12 about 98 percent of supporters behind me. You just have
13 a couple of boot lickers."

14 Q. In Callaway's statement there, he's saying he not
15 only uploaded it to Facebook but to, quote, a lot of
16 websites?

17 A. Yes, sir.

18 Q. Thank you. And your response?

19 A. "I'm sure there's a lot of supporters. But for
20 your message to work, you're going to have to bring
21 together the ones you disagree with to come to terms."

22 Q. Callaway?

23 A. "Since you have a military background, how would
24 you treat treason, or I can just ask him, a military
25 buddy of mine."

1 Q. Your response?

2 A. "Who is committing treason?"

3 Q. Callaway?

4 A. "Please answer the question. How would you treat
5 treason?"

6 Q. Your response?

7 A. "Treason is punishable in many different ways.
8 Officers are arrested all the time for it and sentenced
9 to prison. Treason is subjective too. Depends on what
10 side of the fence you are on whether or not it's
11 treasonous."

12 Q. Callaway?

13 A. "Let's say if a soldier joins the enemy, what
14 does he become? I would think he's been called treason.
15 If so, how would you treat it?"

16 Q. And your response?

17 A. "In today's time or 1776? Because in today's
18 time, they put them in prison."

19 Q. Callaway?

20 A. "So why is it Officer Baker isn't in jail? Is it
21 because he has (inaudible) privilege? I mean
22 metaphorically speaking, when he was alive."

23 Q. Your response?

24 A. "How did he commit treason? How did I commit
25 treason? We literally served our country and then came

1 home and served our communities."

2 Q. Callaway?

3 A. "What treason is working with the enemy. From
4 what you just basically told me, you became the enemy
5 (inaudible). Remember, America was stolen. So you
6 think it's okay for me to go in your house, prop my feet
7 up, and say I own your house? That wouldn't be really
8 nice now, would it?"

9 Q. Your response?

10 A. "If America was stolen, you and I are guilty as
11 well."

12 Q. Callaway?

13 A. "I'm really not guilty at all, my native
14 heritage. I am full on native part of Chickasaw tribe.
15 So your people are guilty, the English, the British."

16 Q. Your response?

17 A. "As do I, Cherokee from my grandmother's side."

18 Q. Callaway?

19 A. "I'm full. Not half."

20 Q. Your response?

21 A. "European from my mother's side. So half of my
22 people suffered the other half, I suppose."

23 Q. Callaway?

24 A. "There's a difference between raping my Native
25 American's people. You think it's okay for your people

1 to die? Natives are dying right now. Have you seen it
2 lately? You should take a trip and look."

3 Q. Your response?

4 A. "Take a trip where?"

5 Q. Callaway?

6 A. "Las Vegas, Nevada, and many other places around
7 the world where people are dying and having the white
8 man come steal our land. But that's okay to you.
9 That's okay to come over and kill people, steal from
10 people. You think that's okay."

11 Q. And your response?

12 A. "That's (inaudible), my man, which is why I
13 haven't been ugly to you or treated you any less, even
14 though you hurt me."

15 Q. Callaway?

16 A. "And back to what your boy did, treason. You
17 work for people who stole this land from us, put us in
18 depression and killing off our culture. But that's okay
19 to you because you're okay with working for those kinds
20 of people. You're okay working for the enemy, putting
21 thousands and thousands of people in jail, ripping
22 families apart, killing people overseas because you were
23 tricked by the old age Confederate and killing each
24 other. If you want peace, you have to have war."

25 Q. Mr. Bailey, that was his final statement to you,

1 correct, "if you want to have peace, you have to have
2 war"?

3 A. Yes, sir.

4 Q. And going back to the top of that paragraph,
5 Mr. Callaway says "and back to what your boy did, his
6 treason"?

7 A. Yes, sir.

8 Q. And do you think he's referring to Daniel Baker?

9 A. Yes, sir.

10 Q. Upon receiving these messages back and forth with
11 Mr. Callaway, did that concern you?

12 A. Absolutely.

13 Q. What did you do about that concern?

14 A. I forwarded the messages to the Dickson Police
15 Department to Mr. Donny Arnold.

16 Q. And these -- this series of messaging back and
17 forth were -- all occurred before noon on Friday,
18 January 22nd?

19 A. That sounds about right. It was -- I believe so.

20 Q. Okay.

21 A. Yes, yes.

22 Q. Were you concerned for the health and safety of
23 Mrs. Lisa Baker?

24 A. I was.

25 Q. Did you call or notify her of any of these

1 messages?

2 A. I didn't get into detail of the messages. I
3 didn't want to concern her, the messages that she and I
4 had, but I did check on her and then I also notified the
5 Dickson Police Department and the TBI was actively
6 investigating the situation. So I didn't want to
7 interfere or get involved in any of that. So I just
8 checked on her and made sure she was okay. We had
9 communication later in the day where I told her that I
10 had some exchange with him and just (inaudible).

11 Q. And, Mr. Bailey, you have read or tried to read
12 verbatim the words that were sent to you by Callaway and
13 your responses to him?

14 A. Yes, sir.

15 GENERAL CROUCH: I'll move a copy of these
16 messages as the State's first exhibit.

17 THE COURT: Any objection,
18 Mr. Lockert?

19 MR. LOCKERT: No, Your Honor.

20 THE COURT: Okay. That will be
21 State's Exhibit 1.

22 (Exhibit No. 1 marked and filed).

23 GENERAL CROUCH: Pass the witness.

24 **CROSS EXAMINATION**

25 **BY MR. LOCKERT:**

1 Q. Did Mr. Garton ask you to relay some threat to
2 Mrs. Baker?

3 A. No, sir.

4 Q. Did he tell you he was going to physically harm
5 her?

6 A. No, sir.

7 Q. Did he make a point over and over that he was
8 going to make these posts about cops, judges, and D.A.s
9 because, basically, he felt they've all committed
10 treason and (inaudible)?

11 A. I believe so.

12 Q. And you tried to advise him that he might get
13 more attention if he tried to pull the sides together,
14 but his belief was he's going to tag cops, D.A.s,
15 judges, and that's going to get the attention he wants
16 for corruption?

17 A. And also Lisa Baker, which I couldn't quite
18 understand how that was going to get the attention for
19 corruption, but that was intended in his testimony.

20 Q. Right.

21 A. Yes, sir.

22 Q. And that was -- that was something you asked him
23 about?

24 A. I'm sorry?

25 Q. He didn't initiate a conversation with you about

1 Lisa Baker, did he?

2 A. Yes, sir. I didn't mention Lisa Baker before
3 him.

4 Q. His wife. Did you mention Officer Baker's wife?

5 A. I just mentioned his family, just (inaudible).

6 Q. Right.

7 A. Yes, sir.

8 Q. But the gist of the conversation is he intends to
9 make these type posts of his -- not just Deputy Baker,
10 but he's going to do more cops, D.A.s, judges, and then
11 later on even cops' families?

12 A. It appears.

13 Q. But at no time did he threaten to harm any of
14 Deputy Baker's family?

15 A. No, sir.

16 Q. To your knowledge, did he threaten to harm her to
17 anybody?

18 A. Not to my knowledge.

19 Q. If Deputy Baker was still alive and he just
20 posted a photoshop picture of him peeing on the
21 photograph of Deputy Baker, would that be as much a
22 concern to you?

23 A. (Inaudible). Looking for to insight fear in me.
24 Daniel was shot and killed. It's a lot different from
25 me --

1 Q. Right.

2 A. -- out in -- (inaudible) you know, said that he
3 shot and killed -- grave site of his photo, him
4 urinating on him, (inaudible) that's not normal. That's
5 scary to me personally. (Inaudible).

6 Q. And are you aware that on Facebook there are
7 actually groups named Piss on Cops or Piss on Police?

8 A. No, sir. (Inaudible).

9 Q. Are you aware that a common meme is photoshopped
10 pictures of people either peeing on cops or even a cow,
11 so there's cows peeing on cops?

12 A. That is the first time I've ever seen
13 (inaudible). Personally.

14 Q. Well, what you're saying is anybody who
15 photoshops a picture and makes a meme of somebody peeing
16 on a photograph of a cop, you consider that to be a
17 crime?

18 A. I think there's more to it than that. I don't
19 think that this is just a picture of Daniel photoshopped
20 onto a picture of being urinated on. I think there's a
21 lot more to it. The communications that he had with me
22 and following the police cruisers, knows where Daniel's
23 grave site is. I mean, that's where Lisa takes her kids
24 (inaudible) and visit her husband. And this is -- you
25 know, I understand that -- you can see where he's making

1 threats against other officers. So just in general, law
2 enforcement and government in general, that's how he did
3 it here, it started with Daniel Baker.

4 And he continued this conversation with me mostly
5 without Daniel Baker. Then we go to Lisa. You know,
6 he's got -- he's got ideas about Lisa. I didn't put
7 that in his head. He said himself he has ideas about
8 Lisa. So, yes, it concerns me. I don't think this is
9 just a normal situation where somebody puts "I hate
10 cops" on the internet. This was specific. It was about
11 Daniel. It was, you know, urination on Daniel.

12 He basically just (inaudible) any communication
13 there followed that. He didn't just put this on
14 Facebook and say "screw cops". And then he starts
15 talking to me. You know, he wants to tell me about how
16 Daniel is a treason -- a treasonous traitor. How is
17 that (inaudible).

18 Q. This was after he posted the meme?

19 A. Yes, sir. After he has posted the meme, yes,
20 sir.

21 Q. And then he told you there were eight cops in
22 total that had mistreated them?

23 A. I don't remember him giving me an exact number.

24 Q. All right. And he indicated to you that he was
25 going to post more --

1 A. Yes, sir.

2 Q. -- memes about cops, maybe even judges and D.A.s?

3 A. Yes, sir.

4 Q. And indicated that he would probably do the same
5 with Lisa Baker?

6 A. Yes, sir.

7 Q. And he didn't threaten to injure Lisa Baker.
8 Everything he talked about with you was posting memes
9 about --

10 A. (Inaudible), yes, sir.

11 MR. LOCKERT: Okay. That's all the
12 questions I have.

13 THE COURT: Redirect?

14 GENERAL CROUCH: Yes, sir.

15 **REDIRECT EXAMINATION**

16 **BY GENERAL CROUCH:**

17 Q. Mr. Bailey, following up with Mr. Lockert's
18 questions. Although he doesn't list specifically harms
19 that he will commit, he's obviously -- his intent
20 appears to be to harass; is that right?

21 A. Yes, sir.

22 MR. LOCKERT: (Inaudible).

23 GENERAL CROUCH: I mean, let's go back to
24 page 7.

25 THE COURT: Hold on. Mr. Lockert, did

1 you object?

2 MR. LOCKERT: (No audible response).

3 THE COURT: Yeah, I'm going to sustain
4 that objection. That calls for a conclusion.

5 MR. LOCKERT: (Inaudible) intent was
6 whether or not his intent was to harass or draw
7 attention to corrupt police.

8 THE COURT: I've already sustained,
9 Mr. Lockert. Go ahead, General Crouch.

10 **BY GENERAL CROUCH:**

11 Q. Let me rephrase, Mr. Bailey. Did Mr. Callaway
12 say "cops will pay, every single one of them"?

13 A. Yes.

14 Q. Did he say when they put on the badge, they
15 become the enemy?

16 A. Yes.

17 Q. Did he accuse Daniel Baker and Lisa Baker of
18 treason?

19 A. Yes, sir.

20 Q. Did he say he followed their police cruisers to
21 his grave?

22 A. Yes, sir.

23 Q. Did he say that they started this war and the war
24 has only just begun?

25 A. Yes, sir.

1 Q. Did he say that to have peace, you have to have
2 war?

3 A. Yes, sir.

4 Q. Did he say to have peace, you have to have
5 peaceful dialogue and discussion?

6 A. No, sir.

7 Q. He chose the word "war".

8 A. Yes, sir.

9 GENERAL CROUCH: Pass the witness.

10 THE COURT: Recross, Mr. Lockert?

11 **RECROSS EXAMINATION**

12 **BY MR. LOCKERT:**

13 Q. And the whole gist of his conversation with you,
14 his war was going to be posting memes about cops,
15 judges, and D.A.s. He never said anything about
16 physically harming anybody, did he?

17 A. I can't tell you what his intention is. I just
18 (inaudible). It gave me concern.

19 Q. I'm not asking what you're concerned about. Did
20 he say anything about hurting -- physically harming
21 cops, about families, D.A.s, or judges?

22 A. No, sir.

23 Q. Was the only threat he made was about posting
24 memes about cops, D.A.s, judges, and cops' families?

25 A. I think that was the only (inaudible).

1 Q. And he indicated that he had many more that he
2 could post?

3 A. Yes, sir.

4 MR. LOCKERT: That's all the questions I
5 have.

6 **FURTHER REDIRECT EXAMINATION**

7 **BY GENERAL CROUCH:**

8 Q. Mr. Bailey, did he ask you how to punish treason?

9 A. Yes.

10 Q. And how did you interpret that?

11 MR. LOCKERT: Objection.

12 GENERAL CROUCH: Grounds?

13 MR. LOCKERT: I didn't ask anything
14 about that in my recross, so it's not proper.

15 GENERAL CROUCH: He asked about threats.
16 And when someone commits the crime of treason, Your
17 Honor, there's only two punishments. And Mr. Bailey was
18 asked several times directly by Callaway "how would you
19 punish treason?" He's trying to bait Mr. Bailey into an
20 answer. That is a threat. How do you punish treason?
21 He's already alleged that Daniel Baker and Lisa Baker
22 committed treason. Now he's asking Mr. Bailey, "how do
23 you punish treason?" Then he says, "well, is that why
24 Officer Baker is in jail metaphorically?"

25 THE COURT: I'm going to sustain the

1 objection. Let's move on.

2 GENERAL CROUCH: Okay. No further
3 questions.

4 THE COURT: All right.

5 MR. LOCKERT: Nothing further.

6 THE COURT: Okay. Mr. Bailey, you're
7 excused as a witness. If you would like to stay in the
8 meeting and observe the proceedings, you can. If you
9 will please mute your microphone. Or you can leave the
10 meeting if you'd like, okay.

11 MR. BAILEY: Yes, sir.

12 THE COURT: Thank you. Next witness?

13 GENERAL CROUCH: Your Honor, the State
14 calls Melissa Baker Bohn.

15 THE COURT: Mrs. Baker Bohn, can you
16 unmute your microphone? Okay. You're called as the
17 State's next witness. Can you raise your right hand and
18 I'll swear you in, please?

19 (Whereupon, the Judge administers the oath
20 to the witness).

21 THE COURT: Thank you.

22 **MELISSA BAKER BOHN**

23 having been first duly sworn by the Judge to tell the
24 truth, the whole truth and nothing but the truth, was
25 examined and testified upon her oath as follows:

1 **DIRECT EXAMINATION**

2 **BY GENERAL CROUCH:**

3 Q. Ms. Bohn, will you state your full name, please?

4 A. Melissa Baker Bohn.

5 Q. Thank you. And, Ms. Bohn, what is your
6 relationship to Daniel Baker?

7 A. I'm his mother.

8 Q. Thank you. And on January the 22nd of 2021, did
9 you receive or see on social media an image posted by
10 the anonymous Joseph Callaway?

11 A. I did.

12 Q. And what was your reaction to that image?

13 A. I was upset and crying and I (inaudible) and I
14 didn't know (inaudible). I didn't know (inaudible).

15 Q. Thank you. And, Ms. Bohn, did you see the image
16 scattered over social media?

17 A. Oh, yes.

18 Q. About approx -- about how many times did you
19 personally observe the image on different social media
20 pages?

21 A. I saw it between 20 and 25 times. It kept
22 appearing in my feed (inaudible) concern about it
23 (inaudible). And it continued to get continued
24 notifications (inaudible).

25 Q. Did you, in fact, attempt to ask people to remove

1 the image?

2 A. I did. I started asking several people that I
3 was personal friends with and asked them to remove the
4 photo that (inaudible). And I asked them to replace it
5 with something different, something more positive.

6 I also did a post myself because I realized I
7 couldn't reach everybody. I wasn't friends with
8 everybody there. And I did a post myself. Not even
9 saying what the original post was about, but asking if
10 they had reposted a hurtful image of Daniel, that they
11 request it from another posting. Ultimately, un -- I
12 made that a private posting because it was shared like
13 187 times my post alone. So it reached several, several
14 people. And that told me that the one that was out
15 there was probably far beyond that.

16 Q. Yeah. Thank you. And, Ms. Bohn, did you -- do
17 you know a Joseph Callaway?

18 A. I don't. I don't know how he even knows Danny.

19 Q. And do you know Joshua Garton?

20 A. No. I saw the name (inaudible) after the fact,
21 but I don't know him.

22 Q. Did this series of events that occurred on
23 January 22nd, did that cause you to fear -- to have
24 concern or -- explain your emotions that day.

25 A. So I want my son remembered. I didn't -- in a

1 very positive way, not in a negative way. And to me,
2 this was very spiteful and unnecessary and I didn't know
3 what the platform -- what the purpose was. So I was
4 instantly very aware and my senses were heightened as to
5 Lisa and (inaudible), first of all. Because if this
6 person was directing it to Daniel, they were directing
7 it to my family. I didn't know where he was, where he
8 was located, if he was near me, or if he was in Dickson
9 County or whatever. I did see the tag of Dickson County
10 Police Department.

11 Q. When you say "the tag," are you referring to
12 that -- the hashtag that the poster created?

13 A. Yes. I'm referring to the hashtag and Daniel's
14 name. He, in spite, intentionally typed -- or whoever
15 created the post typed "Daniel Baker" and showing
16 respect or disrespect of or whatever he had tagged with
17 that hashtag "Dickson County Police Department".

18 And so with all the violence that's going on
19 towards the police right now, it instantly took me back
20 to the day that Daniel was murdered on May 30th. I
21 wasn't expecting that that day and I wasn't expecting
22 this on January 22nd. I didn't know that there were
23 parties involved in any of those, but it took me back to
24 that moment in time and it made me fearful of what could
25 happen.

1 Q. Okay. Thank you.

2 A. I --

3 Q. Go ahead.

4 A. I -- I just didn't understand it. I was really
5 confused, and I didn't know what to think or what to
6 say. I just wanted to know that my family was safe,
7 that I was safe. I did ask if anyone had a picture of
8 the person that was doing -- just a basic picture, just
9 had a mask on. And unfortunately, I live now looking
10 over my shoulder because, as you know, as everybody
11 knows, the trial for the (inaudible) hasn't happened. I
12 didn't know if this person was related to the two that
13 are awaiting trial or what the intent could have been.

14 Q. Is that part of your concern, that the anonymity
15 of this posting a person with a Confederate flag mask
16 on, the seemingly vile intent, I mean, did all of those
17 factors cause you to be fearful for your own life?

18 A. Yes, yes. Because I didn't know what -- what the
19 person looked like, if they were going to show up at my
20 door. I mean, it's not hard to find us. I mean,
21 everybody can see from everything that's been printed in
22 the papers and on social media and on the news networks
23 where we live and where we are. Yeah, it concerned me a
24 lot that this anonymous person -- and I didn't know him.
25 And then to find out that it's a fake profile and seeing

1 all the other people's post and all the -- all the anger
2 that was out there. I didn't know how much anger was --
3 that would cause somebody to do this, somebody I didn't
4 even know.

5 GENERAL CROUCH: Thank you very much. I'll
6 pass the witness.

7 **CROSS EXAMINATION**

8 **BY MR. LOCKERT:**

9 Q. Did Mr. Garton or the alias Mr. Callaway send
10 this post to you in any way?

11 A. No.

12 Q. Did he tag you or any of Mr. Baker's family so
13 that they received this post from him?

14 A. As far as tagging, I seen the hashtag where --
15 that (inaudible).

16 Q. Tags for you so that it would show up on your
17 page?

18 A. No.

19 Q. Did he in any way threaten you physically or to
20 do harm to you or your family?

21 A. Through the post, I took that as a threat because
22 I didn't know the intent of it. I didn't -- and if
23 somebody posts something on social media and it has my
24 family's name on it, yes, I'm going take that as a
25 threat if it's derogatory or disrespectful and

1 encourages violent behavior.

2 Q. So a picture of someone peeing on the photograph
3 of your son, you consider that to be a threat to you?

4 A. I consider it to be disrespectful and I consider
5 it to -- you know, I consider it to be a threat if
6 anybody was doing anything to my family.

7 Q. I understand. Were you aware that this was
8 posted on his private Facebook page and not to the
9 public?

10 A. I didn't know how it got out. I'm not friends
11 with him, so I have no idea how it got out or where it
12 was. I just seen it on -- on several pages and on other
13 people's Facebook pages.

14 Q. Are you aware that it came to your attention and
15 your son's widow's attention by virtue of other people
16 sharing?

17 A. Yes, I was well aware of that. A post that he
18 put out there to be shared.

19 Q. But are you aware that he posted it on his
20 private page, that it was not posted to the public, only
21 his friends could see it?

22 A. I have no idea how he posted it. I just know
23 that I saw it.

24 Q. If he didn't post it to the public, would that
25 make any difference to you?

1 A. Yeah, it would make a difference to me because I
2 want to know how he knows Daniel and why he has so much
3 hate for him.

4 Q. I assume you don't agree that he thinks your
5 deceased son and a bunch of other officers and D.A.s and
6 judges are corrupt and treasonous and that he intends to
7 wage war on them with these type memes? You assume --
8 you would call all that disrespectful, I assume?

9 A. I would say if you have that sort of problem, he
10 went about it the wrong way. You can have the problem
11 with somebody being corrupt or corruption. There are
12 steps to follow and things that he can do besides
13 picking on my family who happens to be -- who I am still
14 grieving to this day and will continue the rest of my
15 life.

16 MR. LOCKERT: I don't have any further
17 questions. I do want to say that your son was truly a
18 hero.

19 MS. BOHN: Thank you.

20 MR. LOCKERT: After he was shot, I'm
21 sure you're aware, his last words were to save his own
22 partner and other officers. So he is truly a hero. I'm
23 sorry you're having to go through this. I just wanted
24 you to know that.

25 MS. BOHN: Thank you.

1 MR. LOCKERT: Nothing further.

2 THE COURT: General Crouch, any
3 redirect?

4 GENERAL CROUCH: (No audible response).

5 THE COURT: Ms. Bohn, at this point
6 you're excused as a witness. If you would like to stay
7 in the meeting, you certainly can. If you would be so
8 kind as to mute your microphone. Or if you would like
9 to leave the meeting, you can do that. It's your
10 choice. Okay?

11 Next witness, General?

12 GENERAL CROUCH: The State calls Donny
13 Arnold.

14 THE COURT: Donny Arnold. Is he in
15 the office there?

16 GENERAL CROUCH: They're looking. I can
17 call another witness.

18 UNIDENTIFIED MALE: He was in the
19 (inaudible). He's in the main lobby.

20 THE COURT: Mr. Lockert, would it be
21 okay with you if we just turned this -- turned the
22 laptop computer with the camera on it toward the witness
23 stand, would that be all right?

24 MR. LOCKERT: That's fine, Your Honor.

25 THE COURT: Okay.

1 (Whereupon, the Judge administers the oath
2 to the witness).

3 THE COURT: Thank you, sir.

4 **CAPTAIN DONNY ARNOLD**

5 having been first duly sworn by the Judge to tell the
6 truth, the whole truth and nothing but the truth, was
7 examined and testified upon his oath as follows:

8 **DIRECT EXAMINATION**

9 **BY GENERAL CROUCH:**

10 Q. Would you state your full name, please?

11 A. Donny Arnold.

12 Q. That you. And you're employed with the Dickson
13 Police Department?

14 A. Yes, sir.

15 Q. And were you working on January 22nd, 2021?

16 A. Yes.

17 Q. All right. And the morning of January 22nd,
18 2021, did you see a posting or an image that was
19 published by Mr. Joseph Callaway?

20 A. Yes, we did. Yes, I did.

21 Q. And where did you see this image?

22 A. It came on my phone.

23 Q. All right. And what was the image?

24 A. It was an image of two young men urinating on a
25 headstone.

1 THE COURT: Can you lean forward to
2 the mic? That way we might be able to pick you up on
3 the picture.

4 CAPTAIN ARNOLD: And on the headstone was a
5 picture of Daniel Baker.

6 **BY GENERAL CROUCH:**

7 Q. And -- now, you have -- you knew Daniel Baker for
8 a long time; is that correct?

9 A. Yes, sir.

10 Q. And you were -- how would you characterize your
11 friendship with him?

12 A. He was, if not my best friend, very much one of
13 my closest at the time of his death.

14 Q. Did you get -- did you attend his funeral?

15 A. Yes.

16 Q. When you saw the image posted by Joseph Callaway,
17 did you think that was Daniel Baker's tombstone?

18 A. Initially, kind of -- I didn't really focus on
19 the headstone more as the people urinating. So,
20 initially, I had the -- I don't know, I guess first was
21 anger and shock of it, kind of sickening feeling.

22 Q. Sure.

23 A. Then as I looked at the picture, I was like, wait
24 a minute, that's not Daniel's headstone. He doesn't
25 actually have a headstone upright like a tombstone, per

1 se. It's more of a flat -- it's a flat marker. So I
2 realized something was up.

3 Q. It didn't take that long for you to understand it
4 wasn't the real --

5 A. Correct, correct.

6 Q. It was a photoshopped image?

7 A. Correct.

8 Q. Considering that it was photoshopped after those
9 initial emotions went through, what did you -- what was
10 your personal response and feelings about the post? How
11 did it make you feel?

12 A. I was still very annoyed and, I guess, pissed
13 off, for lack of a better term.

14 Q. And why was that?

15 A. Daniel -- like I said, Daniel and I were close
16 and I just thought it was just very, I don't know,
17 disrespectful and totally inappropriate.

18 Q. And to you, the image portrayed by
19 Callaway/Garton's posting of two men urinating on a
20 tombstone with Daniel Baker's image, what message did
21 you receive from that?

22 A. I'm not -- I'm not sure what message I got other
23 than, like I said, it was like a -- just a total
24 disrespect of -- of -- like anti police or anti -- you
25 know, beyond Daniel is law enforcement as a whole, I

1 guess, would be -- and very disrespectful for the
2 sacrifice given by Daniel.

3 Q. You're familiar with how Daniel Baker was
4 murdered?

5 A. Yes, sir.

6 Q. Did you consider the anonymity of the posting in
7 relation to how Daniel Baker was murdered?

8 A. Not -- I don't guess I really thought much about
9 that. At that time I didn't really -- didn't know it
10 was an anonymous post or someone hiding behind an
11 anonymous post but that was later found out.

12 Q. And that's what I was merging into is did you
13 assist the TBI with investigating this case? When I say
14 "assist," were you contacted by the TBI?

15 A. Yeah. Agent Craig and I talked several times
16 that morning.

17 Q. Okay.

18 A. Some information I was getting, I was just
19 feeding it straight to Joe throughout the morning.

20 Q. All right. At some point in the morning, did you
21 learn that Mr. -- that Joseph Callaway's Facebook page
22 was attempting to sell something through Facebook
23 Marketplace?

24 A. Yes. Yeah, that was probably about 8 o'clock or
25 so.

1 Q. 8 o'clock that morning?

2 A. Yes, sir.

3 Q. Do you remember what Callaway was attempting to
4 sell?

5 A. Some kind of bed. I don't remember any details
6 of it, but...

7 Q. And did you pass that information along to Agent
8 Craig?

9 A. No. Actually, when I talked to Joe the first
10 time, he had already gotten that information somewhere
11 else. So we both kind of heard about it. And I think
12 they were working that angle at that time.

13 Q. And that morning, did you also forward some
14 messages to the TBI from Mr. Jonathan Bailey?

15 A. Yes. Yeah. Jonathan had -- he -- Jonathan was
16 also close to Daniel. We kind of knew each other
17 through Daniel actually. He was at the time of Daniel's
18 death was working at Benton County, and we just all kind
19 of knew each other. I didn't know Jonathan as well, but
20 he -- when he was -- from -- he was sending me
21 screenshots, I guess the best way to put it, of what his
22 conversation was.

23 Q. In summary, how -- again, you testified that you
24 felt anger?

25 A. Yeah.

1 Q. Annoyance?

2 A. Yeah. And nausea, I guess, would be -- it was --
3 it was nauseating, I guess, at first. It was just
4 really -- it was just a lot of emotions. A lot of
5 memories came back and a lot of things.

6 Q. Thank you.

7 GENERAL CROUCH: I pass the witness.

8 **CROSS EXAMINATION**

9 **BY MR. LOCKERT:**

10 Q. (Inaudible), after Officer Baker was killed in
11 the line of duty, the legislature passed a Daniel Baker
12 Act; is that correct?

13 A. Yes.

14 Q. And that was legislation designed to speed up the
15 process when somebody received the death penalty and the
16 time that they would end up being executed, generally
17 speaking.

18 A. Okay. Was that a question?

19 Q. Do you -- do you consider it unlawful when
20 someone disses cops that don't like cops?

21 A. No.

22 Q. And are you aware that people can give cops the
23 middle finger?

24 A. Oh, yes, sir.

25 Q. And you kind of consider that lawful if someone

1 posted a meme on Facebook of someone peeing on a
2 photograph of you?

3 A. I really haven't given that thought.

4 Q. I mean, you wouldn't like it.

5 A. Correct.

6 Q. You would think it was disrespectful. But if
7 someone did that, are you going to go out and arrest
8 them for posting a photoshop photo of somebody peeing on
9 your picture?

10 A. No, they're not going to be arrested.

11 MR. LOCKERT: All right. That's all the
12 questions I have.

13 **REDIRECT EXAMINATION**

14 **BY GENERAL CROUCH:**

15 Q. Mr. Arnold, you're still alive?

16 A. Yes, sir.

17 Q. You weren't murdered. You're sitting here alive
18 testifying today.

19 A. Yes, sir.

20 Q. So Mr. Lockert's concept of what's illegal in
21 your life does not apply to the facts and circumstances
22 of the Baker family.

23 A. That's correct.

24 Q. Thank you.

25 THE COURT: Recross, Mr. Lockert?

1 MR. LOCKERT: Yes, Your Honor.

2 **RECROSS EXAMINATION**

3 **BY MR. LOCKERT:**

4 Q. You remember Deputy (inaudible), don't you?

5 A. Yes, sir.

6 Q. If someone posted a photoshop meme of somebody
7 peeing on the photograph of Deputy (inaudible), would
8 you go out and arrest them?

9 A. If it -- if it violated the harassment statute as
10 the General had -- we discussed that day, I would -- I
11 would say so. Although, I never went out and arrested
12 anyone at this time for anything.

13 Q. So if it was a live officer, you wouldn't arrest
14 them, but if it's a dead officer, you would go arrest
15 them if General Crouch told you to?

16 A. I would follow the law. And as far as in my
17 career, I've always found that the district attorney's
18 office is usually our best guidance on following the law
19 if we have doubt on that.

20 MR. LOCKERT: That's all the questions I
21 have.

22 **FURTHER REDIRECT EXAMINATION**

23 **BY GENERAL CROUCH:**

24 Q. Mr. Lockert asked you about if you would go
25 arrest somebody for harassment. Simply seeing an image

1 alone would likely not cause you to go arrest somebody
2 for harassment, correct?

3 A. Correct.

4 Q. Now, what if combined with that image the person
5 that posted the image also said that "I get paid to make
6 other people's lives a living hell"? What if they said,
7 "you think that's bad, my friend, the party has only
8 just begun. That's just a little taste of what I can
9 do." You see we're developing more evidence --

10 A. Yes, sir.

11 Q. -- in harassment; is that right?

12 A. Yes, sir.

13 Q. What if they also said -- and forget cops.
14 Anybody. A regular citizen. -- "they will pay, every
15 single one of them." Now, you start combining the
16 statements of the poster with the post is what leads to
17 harassment; is that correct?

18 A. Yes, sir. That's -- I do believe so.

19 GENERAL CROUCH: All right. Pass the
20 witness.

21 **FURTHER RECROSS EXAMINATION**

22 **BY MR. LOCKERT:**

23 Q. And if his statement was that he doesn't like
24 cops, judges, and D.A.s and he's going to post more
25 photos on cops and judges and D.A.s and essentially

1 declaring war against them, you wouldn't like that,
2 would you?

3 A. No, I suppose not.

4 Q. Are you saying if somebody posts a picture
5 photoshop of someone being on a photo of Judge Monsue
6 and General Crouch --

7 GENERAL CROUCH: Which they have done.

8 **BY MR. LOCKERT:**

9 Q. -- and me and another officer, and are you going
10 to arrest that person for harassment?

11 A. No. Not just that in and of itself, no.

12 Q. Not -- but if they tell you that the reason
13 they're doing it is because they think police are
14 corrupt and they want to draw attention to it and
15 they're declaring war on corrupt cops, then you would
16 arrest them. Is that what you're saying?

17 A. No, I don't think that's what I said.

18 MR. LOCKERT: That's all the questions I
19 have.

20 GENERAL CROUCH: No further questions.

21 THE COURT: All right.

22 CAPTAIN ARNOLD: Thank you.

23 THE COURT: You can stay in the
24 courtroom if you'd like. Next witness?

25 GENERAL CROUCH: State calls Robert

1 Cauthen.

2 THE COURT: If you will just come up
3 here to the stand, please, sir. Will you raise your
4 right hand for me so I can swear you in?

5 (Whereupon, the Judge administers the oath
6 to the witness).

7 THE COURT: Thank you, sir. If you
8 will please be seated.

9 **ROBERT TERRY CAUTHEN**

10 having been first duly sworn by the Judge to tell the
11 truth, the whole truth and nothing but the truth, was
12 examined and testified upon his oath as follows:

13 **DIRECT EXAMINATION**

14 **BY GENERAL CROUCH:**

15 Q. Mr. Cauthen, will you state your full name,
16 please?

17 A. Robert Terry Cauthen.

18 Q. Thank you. And, Mr. Cauthen, you live in Hickman
19 County; is that correct?

20 A. Yes, sir.

21 Q. And for the past six or seven months, has the
22 defendant, Mr. Garton, been living with you?

23 A. Yes, sir.

24 Q. And does -- how long have you known Mr. Garton?

25 A. I've known him through my granddaughter for about

1 a year or year and a half before then. He was dating
2 her and was going to propose marriage to her.

3 Q. Okay. How did Mr. Garton come to be living with
4 you?

5 A. He said that the people that he was living with,
6 the lady committed suicide.

7 MR. LOCKERT: Objection.

8 THE COURT: Just a moment. I'm sorry.

9 MR. LOCKERT: Objection.

10 THE COURT: Yes, Mr. Lockert?

11 MR. LOCKERT: Hearsay.

12 GENERAL CROUCH: Statements of the
13 defendant.

14 THE COURT: I think Mr. Cauthen is
15 testifying to statements your client made to him,
16 Mr. Lockert. I'm going to allow it.

17 MR. LOCKERT: (Inaudible) as to when and
18 what is it relevant to?

19 GENERAL CROUCH: It's relevant to where the
20 defendant currently resides or no longer resides as of
21 (inaudible).

22 THE COURT: Okay. I'm going to allow
23 it. Go ahead, General.

24 **BY GENERAL CROUCH:**

25 Q. Go ahead, Mr. Cauthen.

1 A. He was -- I was told that the lady committed
2 suicide and he didn't have any other place to stay.

3 Q. Okay. So you let him stay there?

4 A. Yes, sir.

5 Q. Did he have a job?

6 A. No, sir.

7 Q. How did -- did he pay you rent?

8 A. He paid me through some company. I don't know
9 what it was.

10 Q. Was it the Mental Health Cooperative?

11 A. Yes, sir.

12 Q. They sent you checks directly?

13 A. Yes, sir.

14 Q. Because the defendant didn't have a job?

15 A. No.

16 MR. LOCKERT: Objection. Objection.
17 Relevance. How is this relevant to this charge, Your
18 Honor?

19 THE COURT: General?

20 GENERAL CROUCH: What's his question?

21 THE COURT: What's the relevance to
22 the charge of harassment?

23 GENERAL CROUCH: Well, establishing where
24 he lives and how he got internet service. I've got to
25 lay a foundation. If I don't do that, then Mr. Lockert

1 will object to that.

2 MR. LOCKERT: Your Honor, they have his
3 admission that he made the post. So I don't know how
4 this is relevant on (inaudible).

5 GENERAL CROUCH: So is that an issue any
6 longer? Can we all agree that Callaway is Garton? Are
7 you stipulating to that and I can just not call -- ask
8 any more questions?

9 MR. LOCKERT: Yes.

10 GENERAL CROUCH: He is?

11 MR. LOCKERT: Yes.

12 GENERAL CROUCH: That Callaway is Garton?

13 MR. LOCKERT: Yes.

14 GENERAL CROUCH: Okay. No more questions.

15 THE COURT: It's stipulated.

16 Mr. Lockert, questions?

17 MR. LOCKERT: No, Your Honor.

18 THE COURT: Mr. Cauthen, thank you,
19 sir. You can step down. And you can remain in the
20 courtroom if you'd like or you're excused and you can
21 leave if you'd like.

22 MR. CAUTHEN: All right. Thank you,
23 sir.

24 THE COURT: Thank you. Next witness?

25 GENERAL CROUCH: Judge, our last witness

1 will be Agent Joe Craig, and I need five minutes. I
2 left the video of the interview with the defendant, I
3 need to go get it, and I also need to use the bathroom.

4 THE COURT: All right. Let's take a
5 five-minute break then, okay. Any objection,
6 Mr. Lockert?

7 MR. LOCKERT: That's fine, Your Honor.

8 THE COURT: Okay. We'll take a break.
9 (Whereupon, a recess is taken).

10 GENERAL CROUCH: Judge, I have -- before we
11 start, my next and last witness is Agent Craig. Now,
12 there's a recorded interview of the defendant just so
13 everybody is on the same page. I'm going to be playing
14 the interview from this thumb drive because it's easier
15 to control, but I've burned a copy as the exhibit to
16 disc to submit to the Court. Is everybody okay with
17 that?

18 MR. LOCKERT: Yes, Your Honor.

19 THE COURT: Okay. All right. That
20 will be fine.

21 GENERAL CROUCH: The State calls Agent Joe
22 Craig.

23 **AGENT JOE CRAIG**

24 having been first duly sworn by the Judge to tell the
25 truth, the whole truth and nothing but the truth, was

1 examined and testified upon his oath as follows:

2 **DIRECT EXAMINATION**

3 **BY GENERAL CROUCH:**

4 Q. Agent Craig, will you state your full name for
5 the Court, please?

6 A. Joe Craig.

7 Q. Thank you. You're employed with the Tennessee
8 Bureau of Investigation?

9 A. Yes, sir.

10 Q. And on January 22nd, 2021, were you ordered by me
11 to come to Dickson County or did I request the services
12 of the Tennessee Bureau of Investigation?

13 A. You requested the services of the TBI.

14 Q. I notice in Mr. Lockert's motion he keeps
15 referring to me ordering you, but have I ever ordered
16 you to do anything?

17 A. No.

18 Q. A request?

19 A. You request.

20 Q. Thank you. All right. So on January 22nd, 2021,
21 you were requested by me to investigate the desecration
22 of a grave?

23 A. That's correct.

24 Q. And what happened?

25 A. I contacted our technical services agent assigned

1 to my unit and provided the information that you had
2 provided and that Captain Arnold had provided, and we
3 were able to make identification -- a possible
4 identification on a Joseph Callaway.

5 Q. Thank you. You -- how long did it take you to
6 realize that it was a photoshopped image?

7 A. Two seconds.

8 Q. Two seconds. Not long?

9 A. No.

10 Q. And from there as you were in Dickson County,
11 were you receiving additional information about the
12 posting?

13 A. I was. Getting back to the photoshop question,
14 just to verify and for a factual basis, I did go to
15 Memorial Gardens to compare the photo to the actual
16 marker of Sergeant Daniel Baker. And I knew going up
17 there, but I wanted to verify it 100 percent it was not
18 the same image.

19 Q. When the image first came out, did you know who
20 Joseph Callaway is or was?

21 A. No, sir.

22 Q. Okay. And you were in the courtroom. We
23 stipulated that Joseph Callaway is, in fact, Joshua
24 Garton?

25 A. Yes, sir.

1 Q. And at some point during the day before you knew
2 that Callaway was Garton, were you trying to identify
3 who Joseph Callaway was?

4 A. I was, yes.

5 Q. All right. And how did that develop?

6 A. As we were in the process of trying to make
7 contact through -- there was an individual who was
8 communicating with him that we found on Facebook
9 Messenger and was able to pick up on the live
10 communication. At that point, I reached out to that
11 individual and asked him that he not engage him and not
12 plan to meet him, but that I would like to meet with
13 him.

14 Q. Okay. And this -- this Facebook Marketplace, is
15 that the name of it?

16 A. Yes, it is.

17 Q. And so the person Joseph Callaway was on Facebook
18 Marketplace trying to sell something?

19 A. He was -- he had listed -- Joseph Callaway listed
20 a bed for sale. I believe it was for \$100.

21 Q. Where was the arranged purchase supposed to
22 exchange?

23 A. The meeting place?

24 Q. Yeah.

25 A. It was my understanding that Joseph Callaway

1 would not be meeting, but he would send a friend to
2 meet. And the location was established to be Walmart in
3 Dickson.

4 Q. And did that happen?

5 A. No, it did not.

6 Q. Did you go to Walmart in Dickson?

7 A. I went to the general area and I had officers
8 there in the area.

9 Q. All right. What happened after that?

10 A. Before the meeting was to take place, information
11 came that Joseph Callaway was, in fact, Joshua Garton in
12 photo because of individuals on social media had already
13 established an identity and was sending it out all over
14 social media.

15 Q. At some point in the day, did you actually meet
16 with Joshua Garton?

17 A. I did.

18 Q. How did that happen?

19 A. I was notified by the Dickson Police Department
20 that Joshua Garton was sitting in their lobby and he
21 came in to talk to the police.

22 Q. So you didn't go find him?

23 A. No.

24 Q. Did you give him a message to meet you at the
25 police department or did he just randomly show up?

1 A. He apparently went on his own.

2 Q. You had nothing to do with Joshua Garton arriving
3 at the Dickson Police Department?

4 A. No. It's my understanding -- and I can tell you
5 the TBI had no contact with Joshua Garton prior to
6 walking into the lobby of the Dickson Police Department
7 and seeing him. He was -- he came on his own volition.
8 He came in to -- from what I understand, to speak with
9 detectives about this situation.

10 Q. All right. When you got to the police
11 department, did you attempt to speak with Mr. Garton?

12 A. I did.

13 Q. Did you, in fact, conduct an interview?

14 A. Yes, sir.

15 Q. Do you remember about what time that interview
16 occurred? Before or after lunch?

17 A. It was after lunch.

18 Q. And I'm -- I'm now going to refer you to the big
19 screen, which you can see on the Thumb Drive D, we
20 have -- the interview appears to be broken into two
21 segments; is that right?

22 A. It is.

23 Q. I'm going to play that for the Court.

24 (Inaudible).

25 A. I believe it may be the bottom one first.

1 GENERAL CROUCH: Okay. Play the bottom one
2 first.

3 (Respite).

4 THE COURT: Is that computer not going
5 to play it, General?

6 GENERAL CROUCH: It's not going to play it.
7 My computer will play it, but this one --

8 AGENT CRAIG: General, can I -- I may be
9 able to get it to play. It was -- I had the same issue
10 with my laptop.

11 THE COURT: Okay. Do you want to step
12 down to see if you can do it?

13 AGENT CRAIG: Yes, sir.

14 THE COURT: How long is this supposed
15 to be?

16 GENERAL CROUCH: The interview is about 40
17 minutes. Can we try your computer?

18 AGENT CRAIG: I've got a copy. I can
19 play it on mine.

20 GENERAL CROUCH: If we connect this line to
21 this computer, will it mess up the Zoom?

22 THE COURT: Probably.

23 (Voices in background).

24 UNIDENTIFIED MALE: You could probably do
25 it and run it through the sound system here. Those late

1 hours of playing video games and you didn't pick up on
2 that?

3 (Voices in background).

4 THE COURT: If nothing else, we can
5 put it in front of the microphone and then it will -- it
6 can pick it up that way. Mr. Ethridge, can you go ahead
7 and pull the full screen projector down there?

8 MR. ETHRIDGE: Yes.

9 (Whereupon, an audio recording is played in
10 open court for all to hear).

11 AGENT CRAIG: Okay. I've got it.

12 GENERAL CROUCH: Mr. Lockert, can you hear
13 this?

14 (Voices in background).

15 THE COURT: I can hear it. I don't
16 think Mr. Lockert can hear it, though.

17 MR. LOCKERT: Can you connect it to one
18 of the microphones?

19 GENERAL CROUCH: It is.

20 THE COURT: It's connected to one of
21 the microphones, Mr. Lockert.

22 (Voices in background).

23 MR. LOCKERT: The witness microphone
24 might be better.

25 AGENT CRAIG: Your Honor, I guess I can

1 take it with me back to my microphone.

2 THE COURT: You can try that.

3 (Whereupon, an audio recording is played in
4 open court for all to hear).

5 GENERAL CROUCH: Can you hear it,
6 Mr. Lockert?

7 MR. LOCKERT: No. (Inaudible).

8 GENERAL CROUCH: Pause it. I'll just ask
9 questions.

10 (Whereupon, the audi recording is paused).

11 **BY GENERAL CROUCH:**

12 Q. All right. So, Mr. -- Agent Craig, we're having
13 some technical difficulties. So instead of playing the
14 video, I'm going to ask you some questions about the
15 interview --

16 A. Yes, sir.

17 Q. -- and you can testify to the best of your
18 recollection. First, did you Mirandize Mr. Garton?

19 A. No, sir.

20 Q. Why is that?

21 A. He was not in custody.

22 Q. Okay. And how did you begin the interview?

23 A. I identified myself. Showed him my credentials.
24 Identified Special Agent Andy Vallee as well. And
25 basically began asking him questions about the

1 situation. He immediately stated, which he said to me
2 in the lobby, that the photoshopping is not a crime, and
3 I concurred with him.

4 Q. Okay. I think everybody agreed in this case that
5 the act of photoshopping is not illegal unless you're
6 violating some patent or trade or infringement agreement
7 or something like that. I mean, there can be some
8 copyright laws, but in this case that was not happening.

9 A. That's correct.

10 Q. The actual act of posting or photoshopping Daniel
11 Baker's image onto a tombstone, that was not illegal?

12 A. It was not illegal and I told him many, many
13 times that I concurred with that, that it was not a
14 violation of the law.

15 Q. Okay. Did you and Agent Vallee start asking some
16 questions to determine who Joseph Callaway is or was?

17 A. Yes.

18 Q. What did Garton initially tell you about
19 Callaway?

20 A. That he was an individual that he had met in
21 Dickson at the Speedway gas station and that he sold him
22 the cell phone with a number attached and that he
23 currently lived in Nevada.

24 Q. So in the initial statements of the interview, he
25 claimed that Callaway lived in Nevada?

1 A. Yes.

2 Q. Eventually, did he acknowledge that he was
3 Callaway?

4 A. He did.

5 Q. All right. Did you ask him about the intent or
6 reasoning for posting this image to Facebook?

7 A. Yes. I asked -- I just asked for -- if he could
8 give me an explanation and explain to me what the
9 purpose was for doing this.

10 Q. And what was his response?

11 A. He said that he just had some trouble with law
12 enforcement and that it was just something that
13 happened. And I remember responding to him, you let
14 your emotions get the best of you, and he said yes.

15 Q. Did he say anything about being banned from
16 Facebook?

17 A. He did.

18 Q. What did he say?

19 A. He said one of the reasons he did this was to get
20 Facebook to ban him. To cause enough, I guess, concern
21 about the post itself that they would take action
22 against him and ban him.

23 Q. Okay. At 14 hours 15 minutes and 16 seconds, did
24 he say, "I'm just trying to sell my stuff on Facebook
25 and I'm gone"?

1 A. He did.

2 Q. And what stuff was he referring to?

3 A. He -- he used -- he stated that he used the
4 Joseph Callaway identity for market, which was Facebook
5 Marketplace, and that he had had that -- that alias and
6 an established profile for a few months and that he was
7 using it to sell some of his items.

8 Q. And on January 22nd, was he trying to sell his
9 bed?

10 A. That's what he had listed, yes.

11 Q. Where did he say he was going?

12 A. Kentucky.

13 Q. Said he was going to take a tiny house up there?

14 A. He said that he was in the process of building a
15 tiny house and that he was going to move the tiny house
16 to Kentucky.

17 Q. Okay. And he had -- did he have his bed actually
18 loaded up in the truck?

19 A. He did.

20 Q. Did you see it?

21 A. I did.

22 Q. Was it your impression conversating or having
23 this conversation with Mr. Garton, that he was about to
24 go to Kentucky?

25 A. Yes, absolutely.

1 Q. Now, I have noted it 14:14:44 he stated, "I'm
2 trying to get banned from Facebook".

3 A. Yes.

4 Q. Did he say that?

5 A. He said that I was trying -- he was trying to get
6 banned from Facebook. And I responded to him, "well,
7 you can just do that yourself by logging off."

8 Q. When he said "I'm trying to get banned," he --
9 the intent was "I posted this trying to get banned"?

10 A. That's what he said.

11 Q. Did you go into any conversations with him to any
12 detail as to how he created it or anything like that?

13 A. No. Other than he stated that it came from a --
14 the back of a CD, I believe, a music song that the image
15 came off of. And I asked him how he was able to -- did
16 he know Daniel? And he stated he did not. Knew of him
17 from being in Dickson. And I said, "well, how were you
18 able to put the image of his face on the tombstone?" He
19 said he Googled it and it came up.

20 Q. All right. He denied knowing anybody in the
21 Baker family; is that correct?

22 A. Yes, that's correct.

23 Q. Now, as you're interviewing Garton, had you been
24 receiving other information about the posting and
25 private messages between Garton and third persons?

1 A. Well, I may have received something during that
2 interview, but I had already had that information --

3 Q. You already --

4 A. -- prior to sitting down with Mr. Garton.

5 Q. So you were kind of equipped to do this interview
6 with him based on information you'd already received?

7 A. That's correct.

8 Q. So when he started talking about not being
9 Callaway and all this stuff, you knew he was lying?

10 A. I did. I knew he wasn't telling the truth when
11 he said he's not -- not Callaway.

12 Q. Yes.

13 GENERAL CROUCH: All right. I'll pass the
14 witness.

15 THE COURT: Mr. Lockert, questions? I
16 think your mic may be muted out.

17 MR. LOCKERT: I'm sorry.

18 **CROSS EXAMINATION**

19 **BY MR. LOCKERT:**

20 Q. Agent Craig, what information did you have from
21 the conversation that Mr. Bailey, the retired officer,
22 had had with Mr. Garton when you interviewed Mr. Garton?

23 A. What I had was a thread of communication that
24 Mr. Bailey had sent to the Dickson Police Department and
25 they forwarded it to me and that there was communication

1 that he referenced Lisa, Daniel's wife, in the
2 communication.

3 Q. All right. And Mr. Bailey wasn't technically an
4 officer, but he was questioning the suspect and relaying
5 the information to Officer Arnold and who else?

6 A. As far as my -- as far as I know, that it was
7 only Captain Arnold that was receiving it from
8 Mr. Bailey.

9 Q. Okay. And when you talked to Mr. Garton, what
10 crimes were you investigating?

11 A. The crime of harassment.

12 Q. And at the time you talked to him based on the
13 information you already had, did you already have the
14 information that it was him who sent -- I mean, who
15 posted the meme?

16 A. The information I had, I had a driver's license
17 photo that was basically -- it was an image of -- it was
18 a picture of Joshua Garton and that the officers or the
19 Dickson Police Department had sent it. And word on the
20 internet was coming out that this, in fact, was Joseph
21 Callaway. And then when I walked in the lobby and I
22 looked at Mr. Garton, it was the same image that was put
23 on social media identifying Joseph Callaway as actually
24 Joshua Garton.

25 Q. So you did originally believe he was the one who

1 posted that meme?

2 A. That's correct. You know, reasoning is a good
3 word. Until I was able to sit down with him and talk to
4 him to verify a hundred percent, but I felt comfortable
5 that the individual in the lobby was, in fact, Joseph
6 Callaway.

7 Q. And he being the person who posted the meme?

8 A. Yes.

9 Q. Certainly, your investigation had centered on him
10 as being the suspect in what you believed to be
11 harassment?

12 A. Once the identity of Callaway was transitioned to
13 Joseph Garton, I felt pretty sure that he was the one
14 that posted it and that he would be the one that we
15 would look to as possibly violating the statute of
16 harassment.

17 Q. And was he, in fact, arrested for that charge?

18 A. He was.

19 Q. And when did that happen?

20 A. After the interview. Approximately probably
21 3:30, 3 o'clock on the 21st, or 22nd rather.

22 Q. If you knew that that was him, he wasn't leaving;
23 is that correct?

24 A. If I knew that was him, he wasn't leaving? No.
25 I didn't know I was going to arrest him until after I

1 completed the interview with him and based it on the
2 evidence that he provided and what I had obtained.

3 Q. Did you receive any -- any direction in regard to
4 what to charge him with from Officer Arnold?

5 A. No, sir.

6 Q. Did you receive any direction in regard to what
7 the charges may be from anyone in the D.A.'s office?

8 A. Yes.

9 Q. And did you review the harassment statute itself?

10 A. I did, sir, yes.

11 Q. If Mr. Garton believed that law enforcement
12 officers are corrupt, D.A.s are corrupt, judges are
13 corrupt, and that he was going to wage a war using memes
14 on social media, would you consider that to be a lawful
15 purpose?

16 A. A lawful purpose. It was not an unlawful
17 purpose.

18 Q. Not an unlawful purpose?

19 A. Correct.

20 Q. All right. So the first section of the
21 harassment statute says "when the defendant communicated
22 with another without lawful purpose." His post and that
23 meme on his Facebook page that was private and not open
24 to the public, that would not be an unlawful purpose,
25 would it?

1 A. I think that the -- the posting itself was kind
2 of a means to an end. Putting it out there was just to
3 arouse emotion. And, of course, we all knew that's what
4 had happened. The triggering of the harassment statute,
5 in my opinion, was based on the direct communication
6 that he focused on with Lisa Baker and the Dickson
7 County law enforcement officers.

8 Q. I'll ask you again. His posting a meme, whether
9 it's derogatory or (inaudible) or photoshop, someone
10 peeing on a photo of an officer, you're not saying
11 that's an unlawful purpose, are you?

12 A. No, sir.

13 Q. And, in fact, people post those type things all
14 the time.

15 A. They do.

16 Q. Now, I know they're offensive, but a social meme
17 where somebody has photographed an officer -- a
18 motorcycle officer who is either injured or dead on the
19 side of the road and they post a meme that says, "go
20 home, officer, you're drunk," that's terribly
21 inappropriate, isn't it?

22 A. It is.

23 Q. But it's not unlawful, is it?

24 A. No, sir, it's not.

25 Q. Based on your investigation, did Mr. Garton take

1 any steps to send this meme to any of Officer Baker's
2 family?

3 A. He did not directly send it to the family. It
4 was provided to them through a third party.

5 Q. And based on your information, did he commit
6 third parties to send anything to the Bakers?

7 A. No.

8 Q. He did not post it on social media open to all
9 the public either, did he?

10 A. I don't believe he did. I'm not aware of how
11 many people it actually reached and who he had -- had
12 access to his -- his post.

13 Q. So if his page was private and only shared by his
14 friends and none of those friends were the Bakers or
15 their families, then someone else would have to
16 disseminate that to the Bakers and/or their family?

17 A. Yes, sir.

18 Q. I assume you're not going to charge those people,
19 are you?

20 A. For disseminating it and providing --

21 Q. Yeah.

22 A. I think it goes -- it would go to their intent.
23 They're providing it to them as a courtesy to show them
24 -- to show the Baker family what -- what that post was,
25 to bring it to their attention. Not to -- not for them

1 to elicit some kind of emotional response.

2 Q. If he posted it on his page, which is private and
3 not open to the public, and he doesn't direct anyone to
4 share it with the Baker family, then what evidence do
5 you have that it was his intent that what he posted on
6 his private page would be sent to the Bakers?

7 A. I think that -- that his intent was solely to
8 affect the community, especially the law enforcement
9 community, the Dickson police officers, but also
10 specifically by referencing Lisa Baker and her daughter,
11 that he knew who they were. And initially he told me he
12 didn't know who they were. So I think there is a
13 connection there that he had.

14 Q. Again, I'll ask you what evidence -- not what you
15 think -- what evidence is there that (inaudible) that
16 shows his intent was that meme be sent to the Bakers?

17 A. The evidence that I believe exists is when he
18 communicated with Jonathan Bailey that Lisa Baker would
19 be next.

20 Q. He told him he was going to post memes about a
21 lot more officers and family and he considered them all
22 to be treasonous. That's talking about what he's going
23 to do. I'm talking about this meme. What evidence do
24 you have that he intended this meme to be sent to Lisa
25 Baker or her family?

1 A. Again, I think this meme, again, is not a
2 violation of the law but it was a means to an end for
3 him to get to Lisa Baker. And he -- by knowing who she
4 was by name shows that. And using a third party to help
5 facilitate that.

6 Q. How did he use a third party? Did he direct a
7 third party to do that?

8 A. I think he knew -- I think it's common sense that
9 based on the subject matter --

10 Q. I'm not asking for your opinion. I'm asking you
11 what evidence do you have that he directed or asked a
12 third party to relay this meme to the Baker family?

13 A. By communicating to Jonathan Bailey is my answer.

14 Q. Jonathan Bailey asked him about it, right?

15 A. He volunteered -- he brought up Lisa Baker. He
16 just -- Jonathan brought up the family, but he brought
17 up her name specifically.

18 Q. All right. And indicated he was going to post a
19 meme about her too? Right?

20 A. Yeah.

21 Q. And go post memes about other law enforcement
22 officers. He had just barely got started.

23 A. That's correct.

24 Q. Well, we've already established that it's not
25 unlawful for him to post memes like this about law

1 enforcement or judges or their families as long as he's
2 not threatening to hurt them, right?

3 A. That's correct.

4 Q. I mean, he could post a meme of Mrs. Baker and
5 say she's treasonous just like the cops?

6 A. And then it would --

7 Q. (Inaudible).

8 A. Well, it would depend on how Mrs. Baker would
9 feel as far as what that -- what that -- how that would
10 affect her by seeing that and by calling her treasonous.
11 Was it annoying?

12 Q. What the statute says is that it's the
13 defendant's intent, not how somebody takes it, right?

14 A. No, that's not correct.

15 Q. "That the defendant -- that the defendant
16 intended that the frequency or means of the
17 communication annoy, offend, alarm, or frighten the
18 recipient."

19 A. That's correct.

20 Q. What is the evidence that you have that his
21 posting this meme on his private page was intended to
22 harm or frighten Mrs. Baker?

23 A. By singling out Lisa Baker as a target for that
24 post.

25 Q. Was she singled out as a target for that post?

1 A. He's the one that brought her name up.

2 Q. Was she singled out as a target on that post?

3 A. He -- he sent it to -- he sent it out to his --
4 privately, but once it was disseminated publicly, Lisa
5 was notified and she stated how it made her feel and how
6 she was scared based on that. And then, he, in turn --

7 Q. Did Mr. Garton notify her?

8 A. No, sir. And then, in turn, Mr. Bailey notified
9 her based on Mr. Garton's communication.

10 Q. Did Mr. Garton ask Mr. Bailey to notify her?

11 A. No, he did not.

12 Q. Did he take any steps of any kind that asked
13 anyone to send that to Mrs. Baker?

14 A. He did not.

15 Q. So if he -- if he published it on his private
16 page and he didn't ask anybody to send it to her, he
17 didn't direct anybody to send it to her, then how can
18 you say that it was his intent that she get it?

19 A. I think after talking to Mr. Garton and then
20 looking at the thread, I think that he -- he understood
21 that this would eventually get to Mrs. Baker.

22 Q. What evidence do you have? I'm not talking about
23 what you think.

24 A. I understand that. I understand that, but I -- I
25 answered the question based on Jonathan Bailey taking

1 that information and forwarding it to Lisa Baker and him
2 being concerned about it and in turn forwarding it to
3 Captain Donny Arnold. So there was some concern there
4 based on that comment that Joshua Garton made.

5 Q. That's a private conversation with Mr. Bailey,
6 right?

7 A. Just those two, between Joshua and Mr. Bailey,
8 that's correct.

9 Q. And Mr. Garton didn't ask Mr. Bailey to
10 disseminate that to anyone?

11 A. No, sir, he did not.

12 Q. So in all of your investigation, who actually
13 disseminated this meme to the Baker family?

14 A. I don't know who all disseminated it to them.
15 There's probably numerous individuals.

16 Q. But it wasn't Mr. Garton, was it?

17 A. No, it was not Mr. Garton.

18 Q. And he could have tagged Lisa Baker on the post,
19 couldn't he?

20 A. That, I don't know.

21 Q. Do you do Facebook?

22 A. No, sir, I do not. Now you know why.

23 Q. Based on your investigation, did he tag Lisa
24 Baker so that it would show up on her page?

25 A. No, sir, he did not.

1 Q. Did he send it in an instant message by Facebook
2 to Lisa Baker so that she would see the meme?

3 A. No, sir, he did not.

4 Q. Did he ask anyone to forward that to Lisa Baker?

5 A. No.

6 Q. So you're saying that even if it's a lawful
7 purpose and you can trash cops and families with memes,
8 it depends on what that person thinks when they get it?

9 A. I think the statute talks about whatever the
10 individual -- how it -- how it affects them. It's such
11 -- it's like a phone call at two in the morning, prank
12 phone call from the seventies and eighties, when you
13 tell someone whose child is dead and you called to speak
14 to their child and you repeat that call over and over
15 again. That's harassment. It's the same thing.

16 Q. All right. And in this case, Mr. Garton only
17 posted this meme one time?

18 A. That, I'm not a hundred percent sure of, but it
19 appears he only posted it one time.

20 Q. And if he made statements that he posted it
21 elsewhere, y'all have not found this meme posted
22 anywhere other than that one Facebook page?

23 A. That's correct.

24 Q. And you have no evidence that he asked anyone
25 else to re-post or forward it to the Baker family?

1 A. That's correct.

2 Q. Are you aware that hate speech is protected under
3 the constitution?

4 A. Yes, I am.

5 Q. And you're aware that there are three categories
6 where it can cross the line if a person makes an actual
7 threat?

8 A. Yes.

9 Q. Or if a person tries to insight lawless action?

10 A. Yes, sir.

11 Q. Someone -- someone stands in your face and tries
12 to get you to fight?

13 A. Yes, sir.

14 Q. Mr. Garton didn't ask anyone to do anything
15 unlawful, did he?

16 A. He did not.

17 Q. Did he confront the Bakers and ask them to fight?

18 A. No, sir.

19 Q. Did he make any threats other than posting
20 additional memes attacking cops, D.A.s, judges, and
21 cops' families?

22 A. He made reference to what should happen to
23 individuals that he deemed as being treasonous.

24 Q. Did he ask -- he asked a retired officer what
25 should happen to people who commit treason?

1 A. That's correct.

2 Q. And he told him that he was going to continue his
3 war of posting memes?

4 A. He did.

5 Q. Isn't it true that no matter how inappropriate or
6 offensive speech is, it's protected?

7 A. Under certain -- under certain conditions, and
8 you -- you mentioned that earlier.

9 Q. And you're familiar with the -- the -- that
10 organization of the Woodmont {sic} Baptist Church that
11 goes to soldiers' funerals and calls them fags and calls
12 their families fags and posts all kinds of derogatory
13 signs and those type things. Your familiar with that,
14 aren't you?

15 A. Yes, sir.

16 Q. And the Court has said that's protected speech.
17 So why is this meme not protected speech?

18 GENERAL CROUCH: Judge, I'm going to
19 object. He's asking Agent Craig to provide a legal
20 answer about the constitutional interpretation of a
21 state statute, which in order to ask him that question,
22 you would actually have to read the Tennessee Code which
23 prevents people from picketing and holding signs and
24 yelling at people that are near grave sites and during
25 funerals. They have to be ex number of feet away. So,

1 yes, there is that constitutional holding, but there is
2 also a criminal law in Tennessee to prevent people from
3 doing exactly what Mr. Lockert is talking about.

4 MR. LOCKERT: Just one last question.

5 **BY MR. LOCKERT:**

6 Q. You agree, though, that his posting these type
7 memes is a lawful purpose?

8 A. The post of urinating on the grave was lawful.

9 Q. Yes.

10 MR. LOCKERT: That's all the questions I
11 have.

12 **REDIRECT EXAMINATION**

13 **BY GENERAL CROUCH:**

14 Q. Agent Craig, we have -- when Mr. Lockert asked
15 you about the intent and whether the Facebook profile
16 had been made public or not -- I'm going to show you a
17 copy of Mr. Callaway's Facebook posting. Can you
18 identify this?

19 A. Yes. That is -- that's the image that was posted
20 on the morning of the 22nd of two individuals urinating
21 on a headstone with Daniel Baker's image on it.

22 Q. So Mr. Callaway, who is Mr. Garton, has actually
23 -- it's not just a posting. He's actually created a
24 hashtag.

25 A. Yes.

1 Q. And what's the hashtag say?

2 A. Dickson County Police Department.

3 Q. Now, you've already testified you're not a
4 Facebook user, but did you know that creating a hashtag
5 on Facebook actually does something?

6 A. Yes.

7 Q. What does it do?

8 A. It forwards it. It notifies people that are tied
9 to Dickson County police, all those markings, it will
10 send that to them.

11 Q. Now, we don't know for sure whether or not --
12 when -- when Mr. Callaway's profile went back to being
13 private. Mr. Lockert is just assuming through questions
14 that it was always a private Facebook page. Do you
15 know?

16 A. I do not know. And as for the private and
17 public, I'm not aware. And I think it would have been
18 private for a while. But I know when you use
19 marketplace, you have to open it up publicly so people
20 can respond to you.

21 Q. And he was using marketplace?

22 A. That's correct.

23 Q. Now, we also did actually have some evidence,
24 which has already been exhibit -- entered as evidence as
25 Exhibit 1. And I'm going to refer you to Exhibit 1,

1 page 36.

2 GENERAL CROUCH: And before I do that, I'm
3 going to move this photo as Exhibit Number 2.

4 (Exhibit No. 2 marked and filed).

5 **BY GENERAL CROUCH:**

6 Q. And that's the photo of Callaway's Facebook page
7 and the hashtag. Now, referring to Exhibit 1, page 36,
8 Joseph Callaway says, "trust me" -- do you see that
9 paragraph?

10 A. Yes.

11 Q. What's he say?

12 A. "Trust me, I did it. I didn't just upload it to
13 Facebook. I uploaded it to a lot of websites."

14 Q. So he didn't just simply post it on his Facebook
15 page. He says, "I posted it to Facebook and a lot of
16 websites."

17 A. Yes.

18 Q. What intent does that show?

19 A. That he was looking for a large audience.

20 Q. And let me ask you this: If you are trying to
21 mail me a letter, do you put a stamp on it?

22 A. Yes.

23 Q. Do you deliver it --

24 A. No.

25 Q. -- personally to my house?

1 A. No, sir.

2 Q. How does it get to me?

3 A. It's addressed, stamped, and placed with the
4 postal service for delivery.

5 Q. And then the postman or whoever is delivering the
6 mail takes it to my house?

7 A. Yes, sir.

8 Q. And that's a third party delivering a message?

9 A. Yes.

10 Q. I mean, similarly in this case we have his intent
11 to distribute because he says it. I uploaded it to
12 Facebook and a lot of websites, correct?

13 A. Yes.

14 Q. And it was distributed, correct?

15 A. Yes.

16 Q. With a hashtag on it?

17 A. Correct.

18 Q. The address of who his audience is?

19 A. Yes.

20 Q. Let's look at some above -- some of
21 Mr. Callaway's -- Mr. Garton's statements to you. On
22 the profile page, Exhibit Number 2, he held himself up
23 to be an employee of DSW Construction; is that right?

24 A. Yes, that's correct.

25 Q. And was he an employee of DSW Construction?

1 A. No, sir, he was not.

2 Q. That was a lie.

3 A. Yes, sir.

4 Q. And by holding himself out and linking DSW's
5 company information, website, Facebook, phone number,
6 what happened?

7 A. The construction company received a litany of
8 complaints from the citizens in the community.

9 Q. And did you interview the owner of the
10 construction company?

11 A. Yes, sir, I did.

12 Q. Did he have any clue who Joshua Garton is?

13 A. No, he did not. Or Joseph Callaway.

14 Q. He had no idea?

15 A. No.

16 Q. Did his company receive a lot of negative
17 backlash?

18 A. He did.

19 Q. In fact, you did a download of all of the
20 information -- negative backlash to DWS -- DWC
21 Construction Company received; is that correct?

22 A. They provided me digital copies of those
23 documents, yes.

24 Q. I ask you to identify those documents.

25 A. Yes. This is what DWC provided me based on the

1 comments and communication they received as a result of
2 the post.

3 Q. I mean, people -- Joseph Callaway's Facebook
4 page, Garton's anonymous fake page, hashtagged Dickson
5 County law enforcement and had a link directly to an
6 employee -- a company that he didn't work for, right?

7 A. Yes.

8 Q. And as a result, this company received a stack
9 load of complaints and phone calls and Facebook
10 messages?

11 A. That's correct.

12 GENERAL CROUCH: Move that as Exhibit 3.

13 THE COURT: Any objection?

14 MR. LOCKERT: (No audible response).

15 (Exhibit No. 3 marked and filed).

16 **BY GENERAL CROUCH:**

17 Q. Now, Mr. Lockert was asking you about the actual
18 statute. And the definitions of the statute under
19 communicate says, "means -- means contacting a person in
20 writing, print, telephone, wire, radio,
21 electromagnetic" -- I can't say some of these words --
22 "and includes text messages, facsimile transmission,
23 electronic mail, instant message, messages, images,
24 videos, sound recordings, or intelligence of any nature
25 sent through or posted -- or posted on social media

1 networks."

2 A. That's correct.

3 Q. And that's the actual statute.

4 A. That's the statute that we looked at.

5 Q. And that's what Garton did?

6 A. Yes.

7 Q. He posted on a social media network?

8 A. He did.

9 Q. All right. With a hashtag?

10 A. Yes.

11 Q. And uploaded to many websites?

12 A. That's what he said he did.

13 Q. What is the point of posting something on
14 Facebook if you're not trying to communicate?

15 A. I don't -- I wouldn't have an answer to that.

16 Q. I mean, is there any other objective?

17 A. No.

18 Q. I mean, it's social media --

19 A. "To espouse an opinion or to communicate a
20 belief, opinion, or thought to an individual or masses."

21 Q. I mean, a social network Facebook is for
22 communication.

23 A. Yes, it is.

24 GENERAL CROUCH: Pass the witness.

25 **RECROSS EXAMINATION**

1 **BY MR. LOCKERT:**

2 Q. And at the time he communicated or posted this
3 meme, you've already testified that that was not an
4 unlawful purpose?

5 A. When he -- when he posted that meme, that's
6 correct, it was not an unlawful purpose for posting that
7 meme.

8 Q. And he didn't hashtag anybody in the Baker
9 family?

10 A. No, sir.

11 Q. If he's trying to directly communicate just to
12 Lisa Baker or Daniel Baker's mom, what would be the best
13 way for him to do that?

14 A. I don't know how he -- he would have any types of
15 communications with the Baker family because -- I guess
16 he could try to locate them on Facebook and then send
17 them the message.

18 Q. He could send them a Facebook message with the
19 meme attached, right?

20 A. He could.

21 Q. He could hashtag the family instead of the police
22 department?

23 A. Yes, sir.

24 Q. He could have printed the meme and mailed it to
25 the Bakers?

1 A. Yes, sir.

2 Q. He could have called them and told them go look
3 at my private page and I will accept you as a friend so
4 you can see it?

5 A. Yes, sir.

6 Q. He could have published it in the newspaper if
7 they let him put it in there?

8 A. Pretty much what he did when he puts it on
9 Facebook, the same effect as a newspaper.

10 Q. He could have directed third parties to show the
11 meme to the Baker family. And we have no evidence that
12 he directed anybody to share it with the Bakers, right?

13 A. That's correct.

14 Q. No evidence that he hashtagged any of the Bakers?

15 A. Correct.

16 Q. No -- that he attached the meme to instant
17 messages and sent it to any of the Baker family?

18 A. Yes, sir.

19 Q. Correct?

20 A. Yes, sir.

21 Q. And at the time he posted it, you acknowledge
22 that it was for a lawful purpose?

23 A. At the time he posted it, it was not illegal.

24 MR. LOCKERT: That's all the questions I
25 have.

1 THE COURT: General Crouch, anything
2 further?

3 GENERAL CROUCH: (No audible response).

4 THE COURT: Thank you, Agent Craig.
5 You can step down.

6 MR. LOCKERT: One more question.

7 THE COURT: Go ahead.

8 **BY MR. LOCKERT:**

9 Q. Agent Craig, do you know how the bond got to be
10 \$76,000?

11 A. I believe it was based on the Kentucky comments
12 that he made, that he was possibly going to flee -- flee
13 the state.

14 Q. Were those comments relayed to a magistrate or
15 judge?

16 A. No, not the magistrate or the -- no, I take that
17 back. I did discuss that, I believe, with the
18 magistrate, yes.

19 Q. Did anyone discuss setting the bond at that
20 amount with the magistrate?

21 A. I did not.

22 Q. Are you aware of anyone discussing setting it at
23 that amount with the magistrate?

24 A. I have not. She came in and had the bond. I
25 asked what the bond was and she said 76,000.

1 MR. LOCKERT: That's all the questions I
2 have.

3 THE COURT: General Crouch, anything?

4 GENERAL CROUCH: No, sir.

5 THE COURT: Okay. Thank you, Agent
6 Craig. You may step down.

7 Is that the State's proof?

8 GENERAL CROUCH: Yes, sir.

9 THE COURT: All right. The State
10 rests. Mr. Lockert, any witnesses you wish to call?

11 MR. LOCKERT: No, Your Honor.

12 THE COURT: Okay. All right.

13 General, do you wish to make argument?

14 GENERAL CROUCH: Just briefly, Judge.

15 Judge, I know that Your Honor is familiar
16 with case law, more knowledgeable than I am, but I
17 wanted to briefly talk about, since it's the defendant's
18 defense in this case, the First Amendment.

19 Quoting quotes from a Tennessee case, State
20 v. Goldberg. "The right of free speech is not absolute
21 at all times and under all circumstances. We are not
22 free to harm others under the guise of free speech. As
23 speech strays further from the values of persuasion,
24 dialogue, and free exchange of ideas and moves toward
25 willful threats to perform illegal acts, the State has

1 greater latitude to regulate its (inaudible)."

2 "Exceptions," as Mr. Lockert has already
3 mentioned, "include obscenity, libel, fighting words,
4 which by their very utterance inflict injury or intent
5 to incite or intimidate the breach of peace, but there
6 are some more areas that are -- that are not protected
7 languages."

8 "The United States Supreme Court has
9 rejected the contention that constitutional freedom of
10 speech impress extends to immunity to speech or writing
11 used as an integral part of conduct in violation of a
12 criminal statute."

13 You can't use the First Amendment as a
14 defense when you're committing a crime. When speech
15 itself is the conduct of crime, it's not protected by
16 the First Amendment. Free speech, going back to
17 Gonzalez, does not include the right to cause
18 substantial or emotional distress by harassment or
19 intimidation.

20 And it is absolutely clear, not only from
21 case law but from this case that Joseph Garton,
22 pretending to be Joseph Callaway, intended and did in
23 fact cause emotional stress, harassment, and
24 intimidation, fear to the victims. Case goes on to say
25 that the defendant had no constitutional right to engage

1 in conduct intended only to inconvenience and annoy.

2 And in this particular case in Gonzalez, the
3 defendant was observing the police issuing a traffic
4 citation. That alone was enough for this Court to say
5 that the police can regulate his activity of observing
6 them issue a citation. In this case we have a man
7 saying that every person with a badge on is an enemy and
8 that he is going to war. I want war. Peace comes with
9 war. I mean, it's his own words. He is stating his
10 intent. His intent is to continue on.

11 Also, the court of appeals concluded that
12 the repeated posting, videos, and written content was
13 clearly meant to harass, degrade, intimidate, threaten,
14 and humiliate. This posting alone, as Agent Craig
15 testified to, may or may not be free speech. I would
16 say it's free speech just to post a bond. I would say
17 it's protected under the First Amendment. Just looking
18 at the posted bond.

19 But when you look at defendant's intent and
20 his stated intent that you've got to have war to get to
21 peace, that all police are the enemy, and that Daniel
22 Baker is a traitor and committed treason and so has Lisa
23 Baker, that takes it to another level. And that's what
24 Agent Craig was getting to, it's the combination of the
25 two. Had there just been the post, that's horrible, but

1 okay. Nobody would be charged. But in this case, you
2 have a combination and the defendant has expressed his
3 intent clearly.

4 Let me go over to United States v. Gonzalez,
5 and the Court addresses two classes of speech. One,
6 "defamatory statements are not protected by the First
7 Amendment, reasoning that the resort to epithets or
8 personal abuse is not in any proper sense communication
9 of information or opinion safeguarded by the
10 Constitution."

11 The defendant in this case has made direct
12 defamatory statements towards Lisa Baker and towards her
13 family by calling someone a traitor or that someone has
14 committed treason. Those are defamatory statements that
15 are not protected under the Constitution.

16 In Gonzalez -- excuse me -- yes, in Gonzalez
17 they continue on again to say that in the second
18 protected -- unprotected class, speech, integral to
19 engaging criminal conduct does not warrant First
20 Amendment protection. And in the Gonzalez case, what
21 happened is there is multiple postings and issues that
22 went out to third parties and the Court ruled that "it's
23 not simply statements expressing their beliefs that
24 statements were sent to Belford, the children, and third
25 parties -- and third parties as an extensive and

1 successful campaign to threaten, intimidate, and harass
2 Belford."

3 So Mr. Lockert is saying that, well, it
4 wasn't sent directly to Lisa Baker. Well, it doesn't
5 have to be sent directly to Lisa Baker. It's the
6 intent. The intent is to harass. He says it. We have
7 45 pages of the defendant telling the world that he
8 wants to harass. That that is his goal. His sole goal
9 is to harass and intimidate. I mean, it couldn't be
10 more clearer than that.

11 Finally, Your Honor, in the interpretations
12 of the statute, I've already read through Agent Craig
13 one of the definitions of the word "communicate" in the
14 statute and "social network," which under number 5
15 social network means "any online community of people who
16 share interests and activities or who are interested in
17 exploring the interests and activities of others, which
18 provides a way for users to interact."

19 Well, that's what happened. Mrs. Baker, her
20 family, members of law enforcement are members of this
21 social network. The defendant posted to the membership
22 of this network and he put a hashtag on it.

23 Now, although I could not find any Tennessee
24 cases directly on point because this is somewhat an
25 issue of first impression, there is a federal court case

1 and a case out of Florida, O'Leary v. State, in which
2 that is exactly what we see. And para -- quoting from
3 United States v. Presley, 2014 U.S. District, LEXIS
4 106438, in the case of O'Leary v. Florida is similar to
5 the (inaudible) case. And what I'm getting to, is by
6 the affirmative act of posting the threats on Facebook.
7 Even though it was on his own personal page, the
8 defendant was found to have sent or transmitted the
9 threatening statements to all of his Facebook friends,
10 including the recipient. Now, that's the federal court
11 case.

12 In the Florida case of O'Leary, it was same
13 -- same fact finders but it was sent to people, third
14 party recipients, who then forwarded it to the victim.
15 These are cases that make clear that you do not have to
16 have a direct transmission from the defendant to the
17 victim. It's just like mailing a letter. Nobody on
18 Earth would think that the postman is committing
19 harassment by delivering a letter that contains this
20 (inaudible).

21 If I get a letter -- and let me back up. If
22 I get a letter with someone urinating on my father's
23 grave, yes, it's harassment. My father has passed away.
24 It's -- but he died of natural causes. This Court and
25 Mr. Lockert would never be able to understand the

1 subjectiveness of how the Bakers felt by seeing this
2 image and receiving it. Because, to my knowledge, none
3 of us have lived through a spouse being murdered by
4 someone who hated the criminal justice system. And here
5 you have this representation of someone who does hate
6 the criminal justice system who in his own writing is at
7 war with the criminal justice system and everybody who
8 wears a badge. And then you receive this image of
9 someone urinating on your husband's grave. The
10 combination of those two things is a direct threat.

11 You heard the testimony of the witnesses.
12 They were in fear, not to mention annoyed, harassed,
13 threatened, intimidated. They were in fear. This is
14 harassment. Thank you.

15 THE COURT: Argument, Mr. Lockert?

16 MR. LOCKERT: Yes, sir, Your Honor.

17 First of all, the State through Agent Joe
18 Craig has acknowledged that this meme went -- as posted
19 was not for an unlawful purpose. Therefore, the
20 harassment statute does not apply. They're trying to
21 say that his conversation with a retired officer later
22 where he has threatened to post memes and photos about
23 Lisa Baker is harassment.

24 And I would submit that telling someone in a
25 private conversation that it is your intent to post more

1 memes about officers and the officer's wife, that is not
2 a crime. That is simply discussing something that he
3 intends to do. But by the State's own acknowledgement,
4 this meme was posted for a lawful person. He's got
5 every right to criticize law enforcement. He's got
6 rights under the law and the Constitution to use
7 offensive language. You can post pictures of peeing on
8 cops. You can post pictures of a motorcycle officer
9 laying down injured badly or dead and saying, "get up,
10 officer. Go home. You're drunk." Those things are all
11 offensive, but they're lawful purposes.

12 TBI has acknowledged this meme was for a
13 lawful purpose. If they think they've got some charges
14 based on what he told Mrs. Baker or what he told the
15 retired Officer Bailey, they did not (audio distortion)
16 that. So I submit when the State's own witness
17 acknowledges that this meme was posted for a lawful
18 purpose, the Court has no choice but to dismiss it.

19 THE COURT: All right. Y'all give me
20 a couple of minutes to think this through, okay. Thank
21 you.

22 MR. LOCKERT: Yes, Your Honor.
23 (Respite).

24 THE COURT: All right. We're back.
25 Okay. I have reviewed the State's exhibits. I once

1 again reviewed Mr. Lockert's Motion to Dismiss.

2 First of all, let me start by saying that in
3 this instance when looking at this photograph, first of
4 all, the Court finds certainly that the Joseph Callaway
5 Facebook profile belongs, in fact, to the defendant
6 Mr. Garton. That Mr. Garton, in fact, is the one that
7 posted this despicable photograph on Facebook and the
8 Court finds that he was wanting a certain amount of
9 attention, which it's clear that he got.

10 So looking at Mr. Lockert's Motion to
11 Dismiss, as far as this being protected speech, the
12 Court will first say that in this instance the Court
13 does not find this photograph to be protected speech
14 under the First Amendment. The reason why, Mr. Lockert,
15 in your motion you cite to the Westboro Baptist Church,
16 another misaligned group of despicable people, in this
17 Court's view, with their signs showing up at funerals
18 and soldiers' funerals.

19 The Court said that their sign spoke to
20 issues of broad public import. In this case, the Court
21 cannot find that a photoshopped picture of two
22 individuals urinating on a photo of deceased Sergeant
23 Daniel Baker of the Dickson County sheriff's office is a
24 broad public import outside of Dickson County.

25 Furthermore, in his own words, Mr. Garton

1 says that he had a list of at least eight officers that
2 were -- using my terms -- targets of his dissatisfaction
3 that he was going to be taking further action against.
4 Using terms like "make their lives a living hell, make
5 them pay," that sort of thing. So in summation then,
6 this photograph that was posted to Facebook by Mr.
7 Garton, the Court finds it is not protected speech under
8 the First Amendment.

9 Having considered that, the Court will next
10 look at the statute for harassment under which
11 Mr. Garton is charged, Tennessee Code Annotated Section
12 39-17-308. Let me start with -- first of all, it says
13 that under (a)(3), "communicating to another person,
14 with intent to harass that person, that a relative or
15 other person has been injured or killed when the
16 communication is known to be false." Certainly, the
17 Court finds that that does not apply in this instance.

18 Under (b)(1), "a person convicted of a
19 criminal offense commits an offense if, while
20 incarcerated, on pretrial diversion, probation,
21 community correction or parole, intentionally
22 communicates in person with the victim of the person's
23 crime." It goes onto say, other factors. Certainly,
24 that statute or section of the statute does not apply.

25 We're left then with section (a)(1), (a)(2),

1 or (a)(4). Section (a)(1) says that "a person commits
2 an offense who intentionally communicates a threat to
3 another person and the person communicating the threat,
4 intends the communication to be a threat of harm to the
5 victim, and a reasonable person would perceive the
6 communication to be a threat of harm."

7 It's interesting to note that this says
8 "communicates a threat to another person" in part (1)
9 but in part (a) under part (1) doesn't use the term
10 "intends the communication to be a threat of harm to
11 another person." It says, "intends the communication to
12 be a threat of harm to a victim." That is a specific
13 person.

14 The Court, therefore, takes it to mean that
15 communicating a threat to another person -- "intending
16 the communication to be a threat of harm to a victim and
17 a reasonable person would proceed the communication to
18 be a threat of harm" would mean that a person could
19 threaten to harm someone through a third person and it
20 could violate that code section. That it would not have
21 to be a threat of harm communicated directly to the
22 victim.

23 Under number (2) it says, "communicates with
24 another person with that lawful person, anonymously or
25 otherwise, with the intent that the frequency or means

1 of the communications annoys, offends, alarms, or
2 frightens the recipient and, by this action, annoys,
3 offends, alarms, or frightens the recipient."

4 The Court finds it interesting to note that
5 in his communications, Facebook messages with retired
6 Officer Bailey, that he wrote "since my post is going
7 all over Facebook and I'm loving it." Once again, I
8 said it seems that Mr. Garton was seeking a reaction,
9 apparently from as many people as he could possibly
10 reach.

11 Now, the testimony was that Mr. Garton
12 posted this photograph to his personal or to the
13 personal Facebook page of his alias, Mr. Callaway, and
14 that was the only place it was posted other than --
15 that's all the evidence was introduced to show -- other
16 than Mr. Garton's own words to Mr. Bailey that he had
17 posted on several other websites and had about
18 98 percent positive reaction, in his words, but there
19 was no evidence of that presented to the Court. So
20 we're talking merely about Facebook.

21 Sergeant Baker's widow, Mrs. Baker,
22 testified that she had received the message or the
23 picture, that she came to know about it from people
24 sending it to her making her aware of it.

25 Sergeant Baker's mother testified that she

1 was made aware of the post and her personal feelings on
2 it. Captain Arnold in the police department and retired
3 officer Mr. Bailey both testified of their reaction to
4 the photograph. Mr. Bailey such that he even messaged
5 the page of Mr. Callaway and was communicating directly
6 with Mr. Garton about the photograph.

7 Under number (4), it says, "communicates
8 with another person or transmits or displays an image
9 without legitimate purpose with the intent that the
10 image is viewed by the victim by any method described in
11 subdivision (a)(1), and the person maliciously intends
12 the communication to be a threat of harm to the victim,
13 and a reasonable person would perceive the communication
14 to be a threat of harm."

15 In this case, it's important for the Court
16 to consider who would be victims of harassment from this
17 photograph. Certainly, the Court would find that
18 Mrs. Lisa Baker having the closest relationship with
19 Sergeant Baker, being his widow, could be considered a
20 victim. Sergeant Baker's mother could potentially be
21 considered a victim as well. Certainly, the Court
22 understands the strong emotions that Captain Arnold and
23 Mr. Bailey would feel being so close with Sergeant
24 Baker, but certainly the Court would not consider them
25 to be victims of any harassment by simply seeing the

1 photograph.

2 In looking at those three subsections, two
3 of them require -- (a)(1) and (a)(4) require a threat of
4 harm to the victims. They also require a reasonable
5 person test -- that a reasonable person perceived the
6 communication to be a threat of harm.

7 I'll go ahead and say under number (2),
8 "communicates with another person without lawful
9 purpose, anonymously or otherwise, with the intent that
10 the frequency or means annoys, offends, alarms, or
11 frightens the recipient." The posting of one photograph
12 on Facebook that was posted on Mr. Callaway's, a/k/a
13 Mr. Garton's page, his friends, Facebook friends would
14 see, and it would be disseminated from there, that that
15 -- the Court cannot find that there is probable cause to
16 believe that that was -- that that was a violation of
17 that code section.

18 So we're left with (a)(1) and (a)(4). The
19 Court having found that communicating the picture to
20 another person, certainly posting on Facebook, would do
21 that. That's a form of communication specifically
22 covered by the statute. "Transmitting or displaying an
23 image without legitimate purpose with the intent the
24 image is viewed by the victim by any method described in
25 subdivision (a)(1), and the person maliciously intends

1 the communication to be a threat of harm to the victim,
2 and a reasonable person would perceive the communication
3 to be a threat of harm."

4 The Court is, therefore, finds that those
5 statutory elements have been met insofar as the
6 photograph itself was communicated to another person.
7 Certainly, Mr. Garton, in his own words, intended for
8 the photograph to be viewed.

9 The Court having found that Mrs. Lisa Baker
10 certainly could be considered to be a -- would be
11 considered to be a victim in the case. Therefore, the
12 last element is that the communication must be intended
13 to be a threat of harm to the victim and a reasonable
14 person would perceive the communication to be a threat
15 of harm.

16 As I previously said, certainly we're all
17 aware the photograph depicts two men urinating on a
18 tombstone, upon which the photograph Sergeant Baker has
19 been photoshopped or inserted on the front of the
20 tombstone.

21 We have Mr. Garton's words to Mr. Bailey.
22 The Court looking at the context of the conversation,
23 which started out with Mr. Bailey asking Mr. Garton why
24 would you post a -- not why would you post a picture
25 intending to put the viewpoint out that Mr. Garton hates

1 police officers, but that why would you use Daniel
2 Baker's picture?

3 No doubt Mr. Garton made clear his views.
4 He views police, law enforcement, judges, D.A.s, all to
5 be the enemy in his mind. At one point Mr. Garton said,
6 "I mean, I can do some photoshop of his wife. I've got
7 plenty of ideas running through my mind." However, in
8 this instance, Mr. Garton did not do a photoshop of
9 Mrs. Baker. He did a photoshop of deceased Sergeant
10 Daniel Baker's photograph on a tombstone being urinated
11 on.

12 The Court would take the clear view that the
13 opinion Mr. Garton is conveying in that photograph is,
14 for lack of a better term, piss on Daniel Baker, piss on
15 his grave. That's Mr. Garton's viewpoint. As
16 disgusting as this photo is, as juvenile, as unfunny,
17 unclever, unwitty as this is, the Court cannot find that
18 there's probable cause to believe that the posting of
19 this photograph constitutes a threat of harm to Lisa
20 Baker, but is instead a denigration of Sergeant Baker's
21 memory. Therefore, respectfully, the Court dismisses
22 this count.

23 Anything else, Gentlemen?

24 MR. LOCKERT: No, Your Honor. Thank
25 you, Your Honor.

1 (Whereupon, the audio ends).
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

I, Kim Davidson, LCR#540, licensed court reporter and notary public, in and for the State of Tennessee, do hereby certify that the above hearing was recorded to compact disc on February 3, 2021, and that the foregoing 143 pages of the transcript is a true and accurate record to the best of my knowledge, skills and ability.

I further certify that I am not related to nor an employee of counsel or any of the parties to the action, nor am I in any way financially interested in the outcome of this case.

I further certify that I am duly licensed by the Tennessee Board of Court Reporting as a Licensed Court Reporter as evidenced by the LCR number and expiration date following my name below.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 24th day of February, 2021.



Kim Davidson

KIM DAVIDSON, LCR#540
Expiration Date 6/30/2022

My Commission Expires: February 14, 2024